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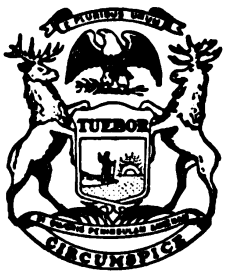
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STATE OF MICHIGAN

MICHIGAN ADMINISTRATIVE CODE 1979

By authority of Act No. 193 of the Public Acts of 1970, as amended, being §8.41 et seq. of the Michigan Compiled Laws



VOLUME I

COMPILED AND PUBLISHED BY THE

MICHIGAN LEGISLATIVE COUNCIL

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CERTIFICATE OF THE LEGISLATIVE COUNCIL

We, the undersigned members of the Legislative Council, directed by law to provide for the compilation of all administrative rules filed with the Secretary of State, hereby certify that the Council caused to be compiled the administrative rules of the State of Michigan promulgated through November 30, 1979, and further certify that this compilation, consisting of 3 volumes including index, meets the requirements of Act No. 193 of the Public Acts of 1970, being §8.41 et seq. of the Michigan Compiled Laws.

Dated: September 24, 1980
Lansing, Michigan

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PREFACE

The 1979 edition of the *Michigan Administrative Code*, published pursuant to Act No. 193 of the Public Acts of 1970, being §§8.41 to 8.48 of the *Michigan Compiled Laws*, is the third in a series of compilations of Michigan administrative rules.

The administrative rules of Michigan were first compiled in 1944 under the supervision of the Secretary of State by authority of former Act No. 88 of the Public Acts of 1943. The rules were arranged in alphabetical order by promulgating agency and published in one volume entitled *Michigan Administrative Code*.

A second compilation of administrative rules was completed in 1954 by the Michigan Compilation Commission under the supervision of the Secretary of State, again by authority of former Act No. 88 of the Public Acts of 1943. The 1954 compilation, also published in one volume, contained the rules of the 1944 compilation as amended, added to, or rescinded by rules appearing in 39 quarterly supplements to the 1944 edition of the *Michigan Administrative Code*.

A uniform numbering system was implemented in 1954, with each rule being assigned a compilation number, or "R" number, which appears in boldface type at the beginning of a rule. This system resulted in a change from an alphabetical arrangement of rules by promulgating agency to a sequential arrangement of rules by R number. The number to the left of the decimal point in the R number originally corresponded to the chapter of the *Michigan Compiled Laws* under which the promulgating agency was created, but the value of this taxonomy depreciated following the adoption of the *Constitution of the State of Michigan of 1963*, wherein Article 5, §2, required the allocation of executive and administrative agencies among and within not more than 20 principal departments. Since that time, the number to the left of the decimal point has generally corresponded to the chapter of the *Michigan Compiled Laws* containing the statutory authority under which an agency promulgates rules. Many

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rules promulgated by the Department of Agriculture and by the Department of Natural Resources exhibit R numbers containing 2 decimal points. In the case of the Department of Agriculture, the number between the 2 decimal points corresponds to a general regulation number assigned by that department. In the case of the Department of Natural Resources, the number between the 2 decimal points corresponds to a regulation number assigned each county by that department.

The 1979 edition of the *Michigan Administrative Code*, published in 3 volumes, includes rules contained in the 1954 edition as amended, added to, or rescinded by rules appearing in 101 quarterly supplements to the 1954 edition, covering the filing periods for administrative rules beginning October 1, 1954, and ending November 30, 1979. No attempt has been made to indicate any implied effect which one rule may have upon another.

The origin and amendments of each rule are indicated in a history note following the text of the rule. The effective date of each rule promulgated after September 30, 1954, is also indicated in the history note, an editorial feature incorporated for the first time in the 1979 edition of the *Michigan Administrative Code*. Principal abbreviations used in history notes, as well as in editor's notes, are as follows:

AC	Administrative Code
ACS	Administrative Code Supplement
AACS	Annual Administrative Code Supplement
Eff.	Effective

Other editorial features include the appearance of uniform authority paragraphs at the beginning of each set of rules in the Code containing citations to acts authorizing the promulgation of those rules; boldface catchlines preceding each rule indicating major topics covered in the rule; editor's notes furnishing information considered helpful to the reader; and the conversion of internal references by rule number to the corresponding R number.

Editorial revisions mandated by §8.43 of the *Michigan Compiled Laws* include the addition of catchlines to rules that appeared without catchlines in the 1954 edition of the Code; changes in the form and style of rules to correspond to current drafting practices; modification of agency headings, when feasible, to reflect executive reorganization of agencies; and the correction of obvious grammatical, typographical, and clerical errors.

A table of contents for the 1979 edition of the *Michigan Administrative Code* appears at the beginning of each volume. This table is arranged

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sequentially by R number, with principal executive departments highlighted in boldface capital letters.

Volume III contains a comprehensive index of all administrative rules appearing in the 1979 edition of the *Michigan Administrative Code.* Detailed index entries are arranged alphabetically under general subject matter headings and under principal executive department headings. Cross-references are liberally employed to aid the reader and to minimize unnecessary repetition of entries.

The 1979 edition of the *Michigan Administrative Code* will be updated each calendar quarter with the publication of a paperback supplement. This quarterly supplement will contain the full text of all permanent rules promulgated during the current quarter, together with notices of emergency rules promulgated during the same period.

In addition to quarterly supplements, an annual supplement will be published each year containing those permanent rules which previously appeared in the 4 quarterly supplements covering that calendar year. This annual supplement will also contain line references to all other permanent rules promulgated since the publication of the 1979 edition of the Code.

Both quarterly and annual supplements to the *Michigan Administrative Code* are published pursuant to Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the *Michigan Compiled Laws.*

To the People of the State of Michigan, who enact the laws pursuant to which the administrative rules of Michigan are promulgated, these volumes are respectfully dedicated.

Herbert A. Finnegan
Legal Editor

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DEPARTMENT OF COMMERCE

MICHIGAN TRAVEL COMMISSION

GRANT AWARDS

(By authority conferred on the Michigan travel commission by section 3 of Act No. 106 of the Public Acts of 1945, as amended, being §2.103 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 2.101 Definitions; A to C.

Rule 1. (1) "Act" means Act No. 106 of the Public Acts of 1945, as amended, being §2.101 et seq. of the Michigan Compiled Laws.

(2) "Bureau" means the travel bureau created by section 2a of the act.

(3) "Business" or "business meeting" means a business or corporate meeting which requires overnight accommodations.

(4) "City and surrounding area" means a city and the surrounding urbanized area if the city is located within an urbanized area as defined by the United States department of commerce, bureau of the census, in the 1970 census of population, number of inhabitants, Michigan issue, July, 1971. Copies of this document are available from the bureau at cost and from the United States department of commerce, bureau of the census. It also means a city and the county in which the city is located if the city is not located within an urbanized area.

(5) "Commission" means the Michigan travel commission created by section 2 of the act.

(6) "Convention" means a meeting sponsored by an organization for the express purpose of providing the membership of the organization with the opportunity to conduct the business of the organization or to discuss common problems or subjects of interest to the membership, including social, religious, economic, political, and other problems and subjects. A meeting for groups of less than 50 attendees, or a meeting which does not require overnight accommodations for a majority of attendees, is not considered to be a convention.

(7) "Convention bureau" means an organization in Michigan which has been created for the primary purpose of attracting conventions and business meetings to the area which it serves and which:

(a) Has, through itself, or through its parent organization, a voluntary board of directors or similar governing body representing a broad cross section of the area it serves.

(b) Is chartered, or is part of a parent organization which is chartered, as a nonprofit corporation under the laws of this state.

(c) Has a separate treasury and financial accounting system.

(d) Is not an organization normally considered as a trade association representing a particular segment of business, labor, or industry.

History: 1954 ACS 88, p. 5, Eff. Aug. 18, 1976.

R 2.102 Definitions; D to N.

Rule 2. (1) "Department" means the department of commerce.

(2) "Director" means director of the travel bureau.

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(3) "Eligible agency" means an organization eligible to receive a grant or other assistance authorized by the act. The expression "eligible agencies" means the same thing that the expression "eligible agencies and authorities" means as that expression is used in the act.

(4) "Local funds" means funds which originate from local sources. State and federal general revenue sharing funds that a local government unit may give to an eligible agency are local funds. Funds received by a local agency which are derived from a federal or state grant program are not local funds. Interest income and other funds received as payment for specific special services are not local funds. Funds derived from accommodation taxes are not considered to be local funds for the awarding of grants for the state's fiscal year of 1977-78 and thereafter.

(5) "New employee" means an employee who has not been employed more than 1,500 hours during the 12 months preceding the date of hiring by the agency claiming that person as a new employee.

History: 1954 ACS 88, p. 6, Eff. Aug. 18, 1976.

R 2.103 Definitions; P to S.

Rule 3. (1) "Program grant" means a grant which is made to provide continuing basic support of advertising and promotional efforts designed to encourage travel for the purposes of resort and recreational tourism, business meetings, and conventions, as well as sightseeing and entertainment. The expression "program grant" means the same thing that the expression "basic support grant" means as that expression is used in the act.

(2) "Regional tourist association" means the east Michigan tourist association, the west Michigan tourist association, the Upper Peninsula travel and recreation association, or the southeast Michigan travel and tourist association.

(3) "Special grant of local funds" means local funds received by an eligible agency which are not expected to be received from year to year on an ongoing basis.

(4) "Special program grant" means a discretionary grant which may be made to an eligible applicant for a travel development and marketing project based upon the extent of the anticipated impact of the project, upon employment, economic stability, and real per capita income. The expression "special program grant" means the same thing that the expression "discretionary grant" means as that expression is used in the act.

History: 1954 ACS 88, p. 6, Eff. Aug. 18, 1976.

PART 2. PROGRAM GRANTS

R 2.111 General purpose.

Rule 11. (1) The general purpose of the program grants is to enhance the economic viability of the state through development, improvement, and promotion of the travel, tourism, and convention industry of the state. This purpose is achieved by providing eligible agencies with continuing support of advertising and promotional efforts designed to encourage travel for purposes of resort and recreational tourism, business and conventions and sightseeing and entertainment. This purpose is further achieved by maximizing coordination between the programs of the bureau and grant recipients.

(2) Specific goals and objectives of the program grants, which are within the context of the general purpose and guidelines of the commission, may be delineated and publicly announced by the bureau from time to time as necessary.

History: 1954 ACS 88, p. 6, Eff. Aug. 18, 1976.

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R 2.112 Application; contents; staff assistance.

Rule 12. (1) The bureau shall provide application forms to potential applicants on request and shall announce annually the date by which completed applications shall be submitted to the director.

(2) The application for a program grant shall be on the form provided by the bureau and shall include the following information:

(a) A description of the applicant's overall program plan for the period during which the grant is to be used.

(b) A detailed description of how the grant funds are to be spent.

(c) A description of the applicant's budget and programs during the year prior to that for which the grant is sought.

(d) Such other information and supporting documentation as the bureau may deem necessary to enable it to assess eligibility and to determine the amount of the grant.

(3) The bureau staff may provide assistance to an applicant in complying with the requirements of the act and these rules.

History: 1954 ACS 88, p. 7, Eff. Aug. 18, 1976.

R 2.113 Eligible agencies.

Rule 13. (1) A program grant or part of a program grant shall not be awarded or disbursed to an applicant until such time as the applicant is an eligible agency.

(2) Regional tourist associations and convention bureaus which meet the other criteria of this rule are eligible agencies for program grants.

(3) In order to qualify for a program grant, an otherwise eligible agency shall demonstrate to the bureau that it has at least the minimum level of local support determined by the bureau to be necessary to effectively carry out the purposes of the program grants. This necessary level of local support shall be announced annually by the bureau for fiscal years subsequent to 1977-78, except that this level shall not be less than $30,000.00 in local funds and any funds derived from accommodation taxes and at least 2 full-time employees paid from local funds and any funds derived from accommodation taxes for its most recent fiscal year.

(4) In order to qualify for a program grant for the state's fiscal year of 1976-77, an otherwise eligible agency shall demonstrate to the bureau a minimum level of local support of at least $25,000.00 in local funds and any funds derived from accommodation taxes and at least 1 full-time employee paid from local funds and any funds derived from accommodation taxes for its most recent fiscal year.

(5) In order to qualify for a program grant for the state's fiscal year of 1977-78, an otherwise eligible agency shall demonstrate to the bureau a minimum level of local support of at least $30,000.00 in local funds and any funds derived from accommodation taxes and at least 2 full-time employees paid from local funds and any funds derived from accommodation taxes for its most recent fiscal year.

(6) Program grants shall not be available to agencies during their initial year of operation.

(7) Program grants may only be awarded to 1 convention bureau within any 1 city and surrounding area. Where 2 or more convention bureaus within a city and surrounding area meet all eligibility requirements, program grants shall be awarded to the convention bureau found by the bureau to be best able to carry out the purposes of the program grants. In making this determination, the bureau shall consider the amount of local funding support, the number of delegates attracted to non-state conventions in previous years, and the extent to which the competing convention bureaus represent the broad interests of the areas they serve.

History: 1954 ACS 88, p. 7, Eff. Aug. 18, 1976.

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R 2.114 Evaluation and awarding of grants.

Rule 14. (1) The bureau shall review and evaluate the applications for program grants, and the director shall award the grants not later than the first day of the second month of the state fiscal year, or 30 days after the appropriations bill for the present fiscal year is signed into law, whichever is later. Ninety percent of the total amount of each grant shall be immediately paid to grant recipients. The remaining 10% shall be withheld by the bureau until grant recipients have complied with the reporting requirements of the bureau.

(2) If the bureau determines that the program of an otherwise eligible agency does not comply with the purpose of the program grants, as defined in R 2.111, funds shall not be paid to that agency until such time as the agency modifies its program to comply with the purpose of the program grants.

History: 1954 ACS 88, p. 7, Eff. Aug. 18, 1976.

R 2.115 Amount of grant.

Rule 15. (1) The regional tourist associations which qualify for program grants shall each receive equal amounts of the funds appropriated annually for regional tourist association program grants.

(2) Program grants for convention bureaus shall be awarded from funds appropriated annually for convention bureau program grants according to the following formula: a convention bureau which qualifies for a program grant shall receive an amount equal to the ratio of the sum of its local funds for its most recent fiscal year to the sum of all local funds for the most recent fiscal year of all convention bureaus which qualify for program grants. However, a convention bureau which qualifies according to this formula for more than 50% of the total funds appropriated shall receive not more than 50% of those funds; the difference shall be reallocated, according to the formula, to the other eligible convention bureaus.

History: 1954 ACS 88, p. 8, Eff. Aug. 18, 1976.

R 2.116 Eligible expenditures.

Rule 16. (1) Program grants may be used to fund the direct cost of advertising and promotional efforts designed to attract travel, tourism, and conventions to the state. Program grants may be used to fund the operating expenses of eligible agencies where those expenses are related to advertising and promotional efforts.

(2) Program grants shall only be used to fund eligible costs and expenditures arising during the state fiscal year for which grants are awarded.

(3) An amount up to, but not more than, $10,000.00, or 20% of the total amount of a program grant, whichever is greater, may be used to compensate new employees or an employee who was previously compensated with program grant funds for time spent working directly on eligible advertising and promotional efforts.

History: 1954 ACS 88, p. 8, Eff. Aug. 18, 1976.

R 2.117 Ineligible expenditures; guidelines.

Rule 17. (1) Program grants shall not be used for administrative expenses, office furniture or equipment, efforts to solicit other funds, or to compensate an officer or administrative employee.

(2) Program grants shall not be used to attract state conventions to a local area within the state or to attract a business meeting to a specific local area when the business meeting is typically held somewhere within the state.

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(3) Program grants shall not be used to promote within the state a specific state area in direct competition with another state area.

(4) Program grants shall not be used to promote a specific area for a specific convention or business meeting in direct competition with another area within the state.

(5) Guidelines as to what constitutes direct competition for the purpose of this rule shall be developed by the bureau for the approval of the commission.

History: 1954 ACS 88, p. 8, Eff. Aug. 18, 1976.

R 2.118 Conditions under which funds shall be repaid or reduced.

Rule 18. (1) All program grant funds received by an agency shall be expended or encumbered by the last day of the state's fiscal year during which the grant was awarded. Program grant funds not expended or encumbered by this date shall be returned to the bureau. Encumbered funds shall be expended by the thirtieth day of the state's next fiscal year or shall be returned to the bureau.

(2) If the actual amount of local funds received by a grant recipient in its most recent fiscal year is less than the amount of local funds specified in the agency's application, the agency shall reimburse the bureau in the amount of the difference between the amount of local funds specified in the application and the actual amount of local funds received, up to the total amount of the program grant.

(3) If the total amount of income from local funds and any funds derived from accommodation taxes received by a grant recipient in its most recent fiscal year is less than 80% of the average total amount of income from local funds and any funds derived from accommodation taxes for the grant recipient's 3 fiscal years which immediately precede its most recent fiscal year, or fiscal years immediately preceding its most recent fiscal year if the agency has not completed 3 preceding fiscal years, the agency shall reimburse the bureau in the amount of the difference between the 80% level and the actual amount of income from local funds and any funds derived from accommodation taxes up to the total amount of the program grant.

(4) If an agency has already completed its most recent fiscal year and has its final financial records for that fiscal year available prior to the time an application is sent to the bureau, the amount by which the actual amount of income received from local funds and any funds derived from accommodation taxes is less than the 80% level shall be subtracted from the amount of the program grant that the eligible agency would otherwise be awarded. The amount subtracted shall be distributed among the other eligible agencies according to the formulas of R 2.115, exclusive of the reimbursing agency.

(5) An eligible agency may request that a special grant of local funds, which it received during one of its previous fiscal years, be excluded from the determination of the 80% level. The bureau shall make this exclusion only if the eligible agency previously excluded the amount of this grant from the total amount of local funds specified in the eligible agency's application for a program grant.

(6) If an eligible agency falls below the requirements of R 2.113(3), (4), or (5), the total amount of the program grant shall be reimbursed to the bureau.

(7) An expenditure of program grant funds for ineligible expenditures, or an expenditure determined by the bureau to be unauthorized by the act or these rules, shall be reimbursed to the bureau.

(8) An agency shall reimburse the bureau within 30 days of the receipt of written notification from the director that the reimbursement is required in accordance with this rule.

History: 1954 ACS 88, p. 8, Eff. Aug. 18, 1976.

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R 2.119 Reallocation of reimbursed funds.

Rule 19. Funds reimbursed to the bureau under R 2.118 during the state fiscal year during which the funds were originally awarded shall be reallocated within 15 days to other eligible agencies according to the formulas of R 2.115, exclusive of the reimbursing agency.

History: 1954 ACS 88, p. 9, Eff. Aug. 18, 1976.

R 2.120 Reporting requirements and guidelines; change in use of funds.

Rule 20. (1) A copy of the grant recipient's annual audit shall be sent to the bureau not more than 30 days after the grant recipient's audit is completed.

(2) The bureau shall develop, in consultation with the commission, reporting requirements and guidelines within the context of these rules in order to insure that the information necessary to evaluate the use and impact of the program grants is obtained, and to insure that the requirements of the rules are complied with by program grant recipients. These reporting requirements and guidelines shall be transmitted to all grant recipients at the time a grant is awarded.

(3) A major change in the use of program grant funds after a grant is awarded shall be approved by the bureau prior to further expenditure of grant funds.

History: 1954 ACS 88, p. 9, Eff. Aug. 18, 1976.

PART 3. SPECIAL PROGRAM GRANTS

R 2.131 General purpose.

Rule 31. The general purpose of the special program grants is to fund travel development and marketing projects to increase the positive impact of travel, tourism, and the convention industry on the employment, economic stability, and increase in real per capita income of the state.

History: 1954 ACS 88, p. 9, Eff. Aug. 18, 1976.

R 2.132 Specific purposes.

Rule 32. (1) Specific purposes to be achieved by the special program grants, in terms of specific goals and objectives, may be delineated by the bureau from time to time as necessary.

(2) Specific goals and objectives announced by the bureau shall follow the policy of the commission regarding marketing, promotion, and advertising strategies, as well as travel promotion development priorities.

(3) Specific goals and objectives shall maximize coordination among programs of the bureau and grant recipients, and shall minimize competition among the programs of grant recipients.

(4) The bureau shall publicly announce any specific purpose to be achieved by the special program grants.

History: 1954 ACS 88, p. 9, Eff. Aug. 18, 1976.

R 2.133 Application; contents; staff assistance.

Rule 33. (1) The bureau shall provide application forms to potential applicants on request, and shall announce annually the date or dates by which completed applications shall be submitted to the director.

(2) The application for a special program grant shall be on the form provided by the bureau, and shall include the following information:

(a) A detailed description of the program or project for which a grant is requested, including a statement of how the proposed program or project relates to an ongoing travel, tourism, or convention program and its long-range goals and objectives.

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(b) The amount of the grant requested and a detailed description of how it is to be spent.

(c) A proposed plan for evaluating the impact of the program or project for which a grant is requested.

(d) Such other information and supporting documentation as the bureau may deem necessary to enable it to assess the merit and feasibility of grant proposals.

(3) Bureau staff may provide assistance to an applicant in complying with the requirements of the act and these rules.

History: 1954 ACS 68, p. 10, Eff. Aug. 18, 1976.

R 2.134 Eligible agencies.

Rule 34. (1) A special program grant or part of a special program grant shall not be awarded or disbursed to an applicant until such time as the applicant is an eligible agency.

(2) Regional tourist associations, convention bureaus, local and regional public agencies, and private nonprofit agencies within the state which meet the other criteria of this rule are eligible agencies for special program grants.

(3) Otherwise eligible agencies shall have governing bodies which can demonstrate to the bureau their support of, and commitment to, an ongoing long-range travel, tourism, or convention program.

(4) Otherwise eligible agencies shall have governing bodies which can demonstrate to the bureau their support for the program or project for which a special program grant is sought.

(5) Otherwise eligible agencies shall demonstrate to the bureau that they have sufficient local funds to assure the successful completion of the program or project if a special program grant is awarded.

History: 1954 ACS 68, p. 10, Eff. Aug. 18, 1976.

R 2.135 Evaluation and awarding of grants.

Rule 35. (1) Special program grants shall be awarded on the basis of the positive impact expected on employment, economic stability, and real per capita income.

(2) The bureau shall review and evaluate the applications for special program grants, and the director shall award special program grants only for those programs or projects which clearly meet the requirements of these rules for eligible programs. The bureau may advise eligible agencies in making such revisions in their applications and proposed programs as may be appropriate and necessary to assure compliance with the requirements of these rules.

(3) During a state fiscal year for which funds are appropriated for special program grants, the grants shall be awarded on those dates which the director deems appropriate. Not more than 50% of the total funds available for special program grants for the state fiscal year shall be awarded during the first 6 months of that fiscal year.

(4) Payment of grants shall be made in accordance with a schedule worked out between the bureau and grant recipients, except that 10% of each grant may be withheld by the bureau until the recipient complies with the reporting requirements of these rules.

History: 1954 ACS 68, p. 10, Eff. Aug. 18, 1976.

R 2.136 Amount of grant.

Rule 36. (1) The amount of a special program grant award may be less, but may not be more, than the amount requested by an eligible agency. The amount

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of the grant shall be determined by the bureau, based on the requirements of the proposed project or program and based also upon the expected positive impact on employment, economic stability, and real per capita income.

(2) No more than 25% of the total funds appropriated for special program grants in a state fiscal year may be awarded for any one program or project or to any one eligible agency.

History: 1954 ACS 88, p. 10, Eff. Aug. 18, 1976.

R 2.137 Eligible expenditures.

Rule 37. (1) Special program grants shall be used to fund the direct cost of programs and projects of travel product development and marketing which have a direct positive impact on employment, economic stability, and real per capita income.

(2) Special program grants shall only be used to fund a program or project which is consistent with the bureau's ongoing travel, tourism, or convention programs and its long-range goals and objectives.

(3) Appropriate travel development projects include:

(a) Feasibility, financial analysis, or environmental impact studies where such studies are likely to result in the development of a new or substantially improved travel product, or where such studies are necessary in order to secure financing or final approval for such a product.

(b) Development and start-up costs for new festivals and special events.

(c) Capital expenditures, including costs of facility construction and remodeling, where some type of local or state matching funds are needed to secure additional construction funds and at least ½ of the matching funds are provided from other sources.

(d) Other special travel product development, marketing, promotion, and advertising programs and projects which carry out the purposes of the act and these rules.

(4) Special program grants may be used to compensate new employees, other than officers or administrative employees, for time spent working directly on the program or project for which a special program grant was awarded.

History: 1954 ACS 88, p. 11, Eff. Aug. 18, 1976.

R 2.138 Ineligible expenditures.

Rule 38. (1) Special program grants shall not be used for administrative expenses, office furniture or equipment, efforts to solicit other funds, or to compensate an officer or administrative employee.

(2) Special program grants shall not be used to attract state conventions to a local area within the state, or to attract a business meeting to a specific local area when the business meeting is typically held somewhere else within the state.

(3) Special program grants shall not be used to promote within the state a specific state area in direct competition with another state area.

(4) Special program grants shall not be used to promote a specific area for a specific convention or business meeting in direct competition with another area within the state.

(5) Guidelines as to what constitutes direct competition for the purposes of this rule shall be developed by the bureau for the approval of the commission.

History: 1954 ACS 88, p. 11, Eff. Aug. 18, 1976.

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R 2.139 Reimbursement of funds.

Rule 39. (1) An expenditure of special program grant funds for ineligible expenditures, or any expenditures determined by the bureau to be unauthorized by the act or these rules, shall be reimbursed to the bureau.

(2) An agency shall reimburse the bureau within 30 days of the receipt of written notification from the director that the reimbursement is required in accordance with this rule.

History: 1954 ACS 88, p. 11, Eff. Aug. 18, 1976.

R 2.140 Reporting requirements; change in use of funds.

Rule 40. (1) A copy of the grant recipient's annual audit shall be sent to the bureau not more than 30 days after the grant recipient's audit is completed.

(2) Each grant recipient shall provide the bureau with interim progress and financial reports in accordance with a schedule worked out between the grant recipient and the bureau. The report shall detail progress and expenditures made to date in the project or program for which a grant was awarded and contain such other documentation as may be requested by the bureau in order to determine compliance with the act and these rules.

(3) Not more than 45 days after the completion of a program or project for which a special program grant was awarded, the grant recipient shall provide the bureau with a final written report which includes:

(a) An itemized program expenditure statement, with a detailed explanation of how the grant funds were used.

(b) A description and evaluation of the program's impact on employment, economic stability, and real per capita income.

(c) Other information as may be requested by the bureau in order to determine compliance with the act and these rules.

(4) A major change in the use of special program grant funds after a grant is awarded shall be approved by the bureau prior to further expenditure of grant funds.

History: 1954 ACS 88, p. 11, Eff. Aug. 18, 1976.

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DEPARTMENT OF AGRICULTURE

MARKETING DIVISION

AGRICULTURAL MARKETING COUNCIL

R 2.151—R 2.158 Rescinded.

History: 1944 ACS 3, pp. 5, 6; 1954 AC, p. 101; rescinded 1954 ACS 68, p. 5, Eff. June 17, 1971.

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DEPARTMENT OF MANAGEMENT AND BUDGET

BUILDING DIVISION

PUBLIC BUILDING ACCOMMODATIONS FOR PHYSICALLY HANDICAPPED

R 10.501—R 10.509 Rescinded.

History: 1954 ACS 51, pp. 5-7, Eff. Aug. 15, 1967; 1954 ACS 66, p. 5, Eff. Dec. 31, 1970; rescinded 1954 ACS 70, p. 7, Eff. Mar. 16, 1972.

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DEPARTMENT OF STATE

PROCEDURE FOR CONDUCTING HEARINGS

(By authority of Act No. 197 of the Public Acts of 1952, as amended, being §24.101 et seq. of the Michigan Compiled Laws)

R 11.1 Definitions.

Rule 1. The term "secretary of state" as used in these rules shall be deemed to mean:

(a) The secretary of state or the deputy secretary of state.

(b) Any employee of the department of state charged by law with conducting hearings.

(c) Any employee of the department of state authorized by the secretary of state to conduct any hearing or hearings.

History: 1944 ACS 37, p. 31; 1954 AC, p. 201.

R 11.2 Notice of hearing.

Rule 2. Notification of any hearing before the secretary of state will be by registered mail, and will state the date, time, place, issues involved and reasons for holding said hearing. Such notice will be mailed at least 10 days prior to said hearing. Unless indicated otherwise, all hearings will be held in the office of the secretary of state, State Capitol, Lansing, Michigan.

History: 1944 ACS 37, p. 31; 1954 AC, p. 201.

R 11.3 Appearance.

Rule 3. When an appearance is made at a hearing, it shall be made either in person or by a duly authorized representative, or by counsel.

History: 1944 ACS 37, p. 31; 1954 AC, p. 201.

R 11.4 Answer; oral statement on charges; written briefs or arguments.

Rule 4. The person or persons who have been served with a notice of hearing may, at his option, file a written answer thereto prior to the date set for hearing, or at said hearing may appear and present an oral statement on the charges contained in the notice of hearing. When written briefs or arguments are presented, a copy shall be served upon the secretary of state and opposite parties at least 5 days prior to the date set for the hearing.

History: 1944 ACS 37, p. 31; 1954 AC, p. 201.

R 11.5 Failure to appear at hearing.

Rule 5. If the person or persons who have been previously served with a notice of hearing fail to appear at a noticed hearing, the secretary of state may proceed with a hearing of the cases brought before him and may, on the evidence presented, make his decision.

History: 1944 ACS 37, p. 31; 1954 AC, p. 201.

R 11.6 Statement of facts.

Rule 6. Any person who requests a hearing, shall submit in writing a full and accurate statement of facts upon which his request is made to the secretary of

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state and to all interested parties and such statement of facts shall be accepted in evidence.

History: 1944 ACS 37, p. 31; 1954 AC, p. 201.

R 11.7 Adjournment or continuance of hearing.

Rule 7. No hearing shall be adjourned or continued, except upon order of the secretary of state or his agent conducting the hearing. All motions and requests for an adjournment, or continuance, shall be accompanied by a statement of the reasons therefor. No motion or request for an adjournment or continuance will be considered unless same is filed with the secretary of state at least 5 days prior to the date assigned for the hearing, except that the secretary of state or his agent may accept such request during a hearing or may waive the 5-day notification if proper showing is made that for reasons not within the control of the person or parties making the motion or request, the motion or request could not be filed within such time limit.

History: 1944 ACS 37, p. 31; 1954 AC, p. 201.

R 11.8 Stipulations.

Rule 8. The parties to any hearing before the secretary of state, may, by stipulation in writing, filed with the secretary of state, agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence on the hearing. Parties are requested to thus agree upon the facts whenever practicable.

History: 1944 ACS 37, p. 31; 1954 AC, p. 202.

R 11.9 Depositions.

Rule 9. Depositions shall only be taken upon written authority of the secretary of state when it appears to the secretary of state that it is impractical or impossible to otherwise obtain the evidence. Where depositions are permitted, they shall be taken according to the rules for taking depositions in civil cases in the state of Michigan, being Michigan Statutes Annotated, Section 27.854, et seq., with all parties given an opportunity to cross-examine the witness under oath.

History: 1944 ACS 37, p. 31; 1954 AC, p. 202.

PROCEDURE FOR CONDUCTING HEARINGS HELD BY LICENSE APPEAL BOARD

R 11.51—R 11.55 Rescinded.

History: 1954 ACS 7, pp. 21, 22, Eff. Aug. 14, 1956; 1954 ACS 89, p. 5, Eff. Nov. 3, 1976.
Cross reference: See now R 257.31 et seq.

BUREAU OF ACCIDENT CLAIMS

ASSIGNED CLAIMS PLAN

(By authority conferred on the secretary of state by section 3171 of Act No. 218 of the Public Acts of 1956, as amended, being §500.3171 of the Michigan Compiled Laws)

R 11.101 Definitions.

Rule 1. As used in these rules:

(a) "Act" means chapter 31 of Act No. 218 of the Public Acts of 1956, as amended, being §§500.3101 to 500.3179 of the Michigan Compiled Laws.

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(b) "Assigned claims facility" means the facility organized and maintained by the secretary of state to carry out the assigned claims function set forth in the act.

(c) "Claimant" means a person entitled to claim because of accidental bodily injury arising out of the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle in this state.

(d) "Department" means the department of state.

(e) "Insurer" means an insurance company, the assigned claims facility, or a self-insurer obligated to pay benefits to persons eligible under sections 3114 and 3172 of the act, which benefits are subject to repayment under section 3177 of the act.

(f) "Repayment" means an amount due to the assigned claims facility by virtue of benefits paid either directly or indirectly by the facility to a person for bodily injury suffered in an accident.

(g) "Self-insurer" means a person certified by the secretary of state pursuant to section 531 of Act No. 300 of the Public Acts of 1949, being §257.531 of the Michigan Compiled Laws.

(h) "Servicing insurer" means an insurer or self-insurer designated to service an assigned claim under the assigned claims plan.

History: 1954 ACS 81, p. 5, Eff. Nov. 13, 1974; 1954 ACS 99, p. 5, Eff. Apr. 25, 1979.

R 11.102 Assigned claims facility.

Rule 2. The secretary of state shall create an assigned claims facility in the department for the purpose of accepting application for personal protection benefits, assigning claims to servicing insurers, assessing fees from member insurers and self-insurers, and performing other duties under the act.

History: 1954 ACS 81, p. 5, Eff. Nov. 13, 1974; 1954 ACS 99, p. 5, Eff. Apr. 25, 1979.

R 11.103 Selection of servicing insurers.

Rule 3. (1) The secretary of state shall designate a sufficient number of insurers to participate as servicing insurers for the assigned claims plan. Servicing insurers are responsible for the payment or other lawful disposition of claims as assigned to them by the assigned claims facility.

(2) Periodically the secretary of state shall review the servicing insurer membership and the volume of claims assigned to ascertain any defects in the administration or operation of the assigned claims plan for the purpose of formulating and implementing changes in the basis for designating servicing insurers or assigning claims.

History: 1954 ACS 81, p. 5, Eff. Nov. 13, 1974; 1954 ACS 99, p. 5, Eff. Apr. 25, 1979.

R 11.104 Claimant eligibility.

Rule 4. A person suffering from accidental bodily injury resulting from the ownership, operation, maintenance, or use of a motor vehicle in this state may apply for personal protection benefits from the assigned claims facility in any of the following cases:

(a) A personal protection insurance is not applicable to the injury.

(b) A personal protection insurance applicable to the injury cannot be identified.

(c) The only identifiable personal protection insurance applicable to the injury is inadequate to provide maximum benefits prescribed because of the financial inability of 1 or more insurers to fulfill their obligation.

History: 1954 ACS 81, p. 5, Eff. Nov. 13, 1974; 1954 ACS 99, p. 5, Eff. Apr. 25, 1979.

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R 11.105 Defaulting insurer liability.

Rule 5. The assigned claims facility or a servicing insurer to which a claim is assigned is entitled to repayment from a defaulting insurer for unpaid benefits due.

History: 1954 ACS 81, p. 5, Eff. Nov. 13, 1974; 1954 ACS 99, p. 6, Eff. Apr. 25, 1979.

R 11.106 Application for personal protection benefits.

Rule 6. (1) A claimant shall make application for basic personal protection reparation benefits from the assigned claims facility as soon as practicable, but in any event not more than 1 year after an accident.

(2) Application shall be made upon a form prescribed by the secretary of state. Application forms are available upon request from a member insurer or secretary of state branch office.

(3) The application form shall be completed in full, signed by the claimant, accompanied by available documentation of loss, and submitted to the Assigned Claims Facility, Department of State, Lansing, Michigan 48918. If the claimant is a minor, the application shall be signed by a parent or legal guardian.

History: 1954 ACS 81, p. 5, Eff. Nov. 13, 1974; 1954 ACS 99, p. 6, Eff. Apr. 25, 1979.

R 11.107 Documentation of loss.

Rule 7. (1) Application for a claim shall be accompanied by documentation of loss, if available, and the amount of loss sustained. Documentation of loss, if available at the time of application, shall include a copy of the police report of the accident, a medical examination report, medical bills, work loss verification, and additional information as required by the assigned claims facility or servicing insurer.

(2) A medical examination report shall include the date of examination, probable cause and diagnosis of injury, treatment and prescribed medication, prognosis and probable date the patient may return to work where applicable, and signature, name, address and professional designation of the person furnishing the medical services or preparing the medical report.

(3) A medical bill shall contain an itemized list of dates and services rendered or medication supplied with charges. The bill shall contain identifying information of the person or organization furnishing the services or medication.

(4) An application for survivor's benefits shall be accompanied by a copy of the death certificate of the deceased person.

(5) If the claimant is eligible for benefits because of being engaged full time in a formal program of academic or vocational education or training, a letter from the school registrar, or other appropriate person, verifying enrollment is required. The letter shall be required at the beginning of each term, or at 6-month intervals, whichever is more frequent. The letter shall be sent to the assigned claims facility or the servicing insurer, whichever is applicable.

History: 1954 ACS 81, p. 6, Eff. Nov. 13, 1974; 1954 ACS 99, p. 6, Eff. Apr. 25, 1979.

R 11.108 Assignment of claims.

Rule 8. (1) Upon receipt of an application for basic personal protection reparation benefits, the assigned claims facility shall make an initial determination of the claimant's eligibility for benefits.

(2) An obviously ineligible claim received by the assigned claims facility shall be denied summarily. The claimant shall be notified promptly in writing of the denial and the reasons therefor.

(3) An eligible claim shall be assigned promptly by the assigned claims facility to a servicing insurer. The facility shall notify the claimant of the identity and address of the servicing *insurer to which the claim is* assigned.

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(4) In assigning claims, the assigned claims facility shall consider the resources of the servicing insurer relative to the claim and the convenience for the claimant.

History: 1954 ACS 81, p. 6, Eff. Nov. 13, 1974; 1954 ACS 99, p. 6, Eff. Apr. 25, 1979.

R 11.109 Payment for loss.

Rule 9. (1) Upon receipt of an application for a claim from the assigned claims facility, the servicing insurer shall investigate the claim expeditiously and make prompt payment for loss within the time prescribed by the act.

(2) Interest due for late payment of a claim shall be paid by the servicing insurer to which the claim is assigned. A servicing insurer shall not be reimbursed for the amount of interest paid.

(3) A servicing insurer may require an additional medical examination of a claimant. Failure of a claimant to comply with the request may be cause for denial of benefits.

(4) Payment for allowable expenses incurred shall be made pursuant to section 3112 of the act.

(5) Payment for work loss shall be made to the claimant pursuant to section 3112 of the act. Written verification from an employer may be required by a servicing insurer prior to payment.

(6) Payment for survivor's loss benefits shall be made to the surviving spouse or eligible dependents pursuant to section 3112 of the act. If there is no surviving spouse, benefits for a minor shall be paid to a guardian appointed by a court of competent jurisdiction. A certified copy of guardian appointment may be required by a servicing insurer prior to payment.

History: 1954 ACS 81, p. 6, Eff. Nov. 13, 1974; 1954 ACS 99, p. 6, Eff. Apr. 25, 1979.

R 11.110 Indemnity rights.

Rule 10. A servicing insurer to which a claim has been assigned shall preserve and enforce rights to indemnity or reimbursement from third parties, including the securing of a judgment against an uninsured vehicle owner or registrant or the estate of the owner or registrant. These rights shall be assigned to the assigned claims facility at the time the servicing insurer closes the claim and transmits the claim records to the assigned claims facility.

History: 1954 ACS 81, p. 7, Eff. Nov. 13, 1974; 1954 ACS 99, p. 7, Eff. Apr. 25, 1979.

R 11.111 Claim records.

Rule 11. (1) Assigned claim records are open for inspection by a representative of the secretary of state, both as to claim handling and claim and expense payments. The secretary of state shall prepare an inspection report. A copy of the report shall be furnished to the servicing insurer and the commissioner of insurance.

(2) Deviations from acceptable claim handling practices shall be corrected upon receipt of the report. Excessive expense payments or items not covered under the act shall be charged to the servicing insurer in addition to its assessment at the next annual assessment.

(3) A servicing insurer shall transmit to the assigned claims facility the complete claim records when benefits are paid and the claim is closed. Claim records shall be retained by the assigned claims facility for not less than 3 years.

History: 1954 ACS 81, p. 7, Eff. Nov. 13, 1974; 1954 ACS 99, p. 7, Eff. Apr. 25, 1979.

R 11.112 Assessment of member insurers.

Rule 12. The assigned claims facility shall assess each member insurer and self-insurer an annual fee for the purpose of allocating among member insurers

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annual expenses and claim payments incurred in the administration of the assigned claims plan based upon the reasonable expenses and claim payments incurred by servicing insurers and the assigned claims facility.

History: 1954 ACS 81, p. 7, Eff. Nov. 13, 1974; 1954 ACS 99, p. 7, Eff. Apr. 25, 1979.

R 11.113 Statement of expenditures.

Rule 13. Prior to March 1 of each year, a servicing insurer shall submit to the assigned claims facility a statement of expenses and claim payments incurred in administration and payment of claims assigned to it by the assigned claims facility. The statement shall contain an itemized list of assigned claims, personal protection reparation benefits paid, allocated expenses, and such other information and documentation as the secretary of state requires.

History: 1954 ACS 81, p. 7, Eff. Nov. 13, 1974; 1954 ACS 99, p. 7, Eff. Apr. 25, 1979.

R 11.114 Assessment formula.

Rule 14. (1) After determination of the total amount of each year's assessment, the assigned claims facility shall collect that amount from member insurers and self-insurers in the following manner:

(a) Each member insurer and self-insurer shall be charged a basic annual assessment of $20.00. The aggregate of the $20.00 basic fee shall be subtracted from the total amount to be assessed before the calculation of the amounts in subdivisions (b) and (c).

(b) Each self-insurer's portion of the total assessment shall be determined by multiplying the total assessment by a fraction of the numerator of which is the number of motor vehicles the self-insurer has self-insured and the denominator the total number of motor vehicles registered in the state.

(c) After subtracting the amounts in subdivisions (a) and (b), the balance of the assessment shall be paid by member insurers in proportion of their direct written premiums in this state for motor vehicle liability and personal protection insurance as reported by the commissioner of insurance for the most recent year for which they are available.

(2) Payment for benefits and expenditures approved by the assigned claims facility shall be deducted from the assessment of a servicing insurer. If payments from claims and expenses exceed the assessment, the assigned claims facility shall reimburse the servicing insurer for the balance of costs incurred.

History: 1954 ACS 81, p. 7, Eff. Nov. 13, 1974; 1954 ACS 99, p. 7, Eff. Apr. 25, 1979.

R 11.115 Collection of assessment fees.

Rule 15. (1) The assigned claims facility shall prepare and send to each member insurer and self-insurer an assessment bill. The bill shall be accompanied by an annual financial statement of the assigned claims plan.

(2) Assessment fees shall be paid within 30 days of billing.

(3) An insurer who fails to pay an assessment within 30 days shall be reported as delinquent to the commissioner of insurance.

History: 1954 ACS 81, p. 8, Eff. Nov. 13, 1974; 1954 ACS 99, p. 8, Eff. Apr. 25, 1979.

R 11.116 Repayments.

Rule 16. When obtained by the assigned claims facility, a judgment for repayment shall be forwarded to the state treasurer for collection. The costs associated with collection may be interaccounted by the state treasurer to the assigned claims facility.

History: 1954 ACS 99, p. 8, Eff. *Apr. 25, 1979.*

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DEPARTMENT OF ATTORNEY GENERAL

CHARITABLE TRUST DIVISION

R 14.1—R 14.5 Rescinded.

History: 1954 ACS 37, pp. 5-7, Eff. Feb. 14, 1964; rescinded 1954 ACS 47, p. 6, Eff. Aug. 14, 1966.

CHARITABLE TRUSTS

(By authority conferred on the department of the attorney general by sections 6, 7, and 10 of Act No. 101 of the Public Acts of 1961, as amended, and section 52 of Act No. 380 of the Public Acts of 1965, being §§14.256, 14.257, 14.260, and 16.152 of the Michigan Compiled Laws)

R 14.11 Enforcement of rules.

Rule 1. These rules shall be enforced by the attorney general and his representatives to protect the interests of the people of this state in the administration, operation and disposition of the assets of all charitable trusts in this state.

History: 1954 ACS 47, p. 5, Eff. Aug. 14, 1966.

R 14.12 Registration statements.

Rule 2. A trustee subject to Act No. 101 of the Public Acts of 1961, as amended, within 2 months after receiving possession or control of property for charitable purposes, shall file with the attorney general a registration statement on a form which shall be supplied by the attorney general on request. Such trustee shall also file with the attorney general a copy of the instrument providing for its title, powers or duties and an inventory of the assets of the charitable trust.

History: 1954 ACS 47, p. 5, Eff. Aug. 14, 1966.

R 14.13 Annual reports.

Rule 3. (1) A trustee of a charitable trust subject to Act No. 101 of the Public Acts of 1961, as amended, which solicits money from the public, within 6 months after the close of its fiscal year, shall file with the attorney general a copy of its certified audit report for such year, containing a balance sheet, a statement of receipts and disbursements, and a list of assets including securities held. In lieu of a certified audit report, such a trustee may file its sworn statement setting forth such information in accordance with the form prescribed by the attorney general.

(2) A trustee, except a trustee of a charitable trust which solicits money from the public, subject to Act No. 101 of the Public Acts of 1961, as amended, shall file with the attorney general annual periodic written reports, in accordance with the form prescribed by the attorney general. A copy of the account filed in any court having jurisdiction of the charitable trust, if the account is substantially the same as such form, may be filed as an annual periodic report.

(3) The first annual periodic report of a charitable trust shall cover the first calendar or fiscal year ending after the trust became subject to such act. The first annual periodic report shall be due on or before the expiration of 6 months after the close of the first calendar year or fiscal year after the trust became subject to the act. Thereafter, subsequent annual periodic reports shall be due on or before the expiration of 6 months after the close of the charitable trust calendar or fiscal year.

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(4) A charitable trust required to file annual periodic written reports with the attorney general may file in lieu thereof an audit certified as being true and correct and in accordance with generally accepted accounting principles by a certified public accountant and containing substantially the information required on the annual periodic report form of the attorney general.

(5) A statement indicating whether or not a creator of the trust or a contributor to the trust or a trustee, in his individual capacity, or a person related either by consanguinity or by affinity to such creator, contributor or trustee, has entered into any transaction involving the purchase, sale, transfer or loan of any of the trust's assets, shall accompany the annual periodic report.

(6) Complete details regarding all transactions in which a trustee, employees of a trustee, or persons related to a trustee, or related to employees of a trustee, either by consanguinity or by affinity, have personally benefitted from operating and management of the trust or received any part of the income or corpus of the trust, other than the normal and reasonable trustee fee, shall be disclosed in a statement accompanying the report.

History: 1954 ACS 47, p. 5, Eff. Aug. 14, 1966.

R 14.14 Suspension of annual reports.

Rule 4. A trustee of a charitable trust may be granted a suspension from the requirement of filing annual periodic reports on written application supported by good and sufficient reasons. If a suspension is granted, reports may be required on the happening of specified events or contingencies or at stipulated future report dates. Ordinarily a suspension will not be granted when reports on the operation of the charitable trust are required to be made to a court or to other governmental agencies.

History: 1954 ACS 47, p. 6, Eff. Aug. 14, 1966.

R 14.15 Investigations.

Rule 5. Either the attorney general or an assistant attorney general designated by the attorney general may hear information under oath and receive books, memoranda, papers, documents of title and evidence of assets, liabilities, receipts or disbursements produced pursuant to an order of the attorney general issued by the attorney general as provided by the act.

History: 1954 ACS 47, p. 6, Eff. Aug. 14, 1966.

R 14.16 Inspection of records.

Rule 6. The charitable trust register, copies of instruments and the reports filed with the attorney general shall be available for inspection during regular business hours at the charitable trust division of the office of the attorney general in Lansing, Michigan, subject to the following requirements:

(a) An individual desiring to inspect the register, copies of instruments and the reports filed with the attorney general shall submit a request in writing setting forth his name, address and indicating his interest in the charitable trust records desired to be reviewed. If such request is approved by the attorney general, the authorized review of the register, copies of instruments and reports filed with the attorney general shall be made in the presence of the attorney general or his representative.

(b) If the charitable trust is to be used for both private and charitable purposes, only those portions of the documents pertaining to charitable purposes, and only if such charitable purposes have matured and come into being, shall be available for public inspection.

History: 1954 ACS 47, p. 6, Eff. Aug. 14, 1966.

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R 14.17 Repeal.

Rule 7. Sections 1 to 5 of the rules relating to charitable trusts, being R 14.1 to R 14.5 of the Michigan Administrative Code, and appearing on pages 2757 to 2759 of the 1963 Annual Supplement to the Code, are repealed.

History: 1954 ACS 47, p. 6, Eff. Aug. 14, 1966.

CONSUMER PROTECTION DIVISION

GENERAL RULES

(By authority conferred on the attorney general by section 3 of Act No. 331 of the Public Acts of 1976, being §445.903 of the Michigan Compiled Laws)

R 14.51 Definitions.

Rule 1. As used in these rules:

(a) "Act" means the Michigan consumer protection act.

(b) "Attorney general" means the elected attorney general or an assistant attorney general.

History: 1954 ACS 93, p. 5, Eff. Nov. 5, 1977.

R 14.52 Consumer protection division; enforcement and administration of act; location; assistant attorney general in charge; powers and duties; investigative agent.

Rule 2. (1) The Michigan consumer protection act shall be regularly enforced and administered by the department of attorney general, consumer protection division, or such other division of the department as from time to time is authorized by the attorney general.

(2) The consumer protection division is located at the Law Building, Lansing, Michigan 48913.

(3) The consumer protection division shall be headed by the assistant attorney general in charge thereof as appointed by the attorney general, which assistant in charge shall have the care, custody, and control of the files and records of the division. In addition, the assistant attorney general in charge shall administer the act and approve all applications for subpoenas, initiation of investigations, commencement and disposition of actions, acceptance of assurances of discontinuances, and promulgation of rules pursuant to the consumer protection act. In the absence of, or when designated by, the assistant in charge, the first assistant attorney general of the consumer protection division may act in the place of the assistant in charge. The assistant in charge is hereby authorized to delegate to such persons within the division such other duties, functions, and responsibilities under the act as he determines from time to time to be appropriate.

(4) Any investigative agent of the attorney general, prosecuting attorney, or any person selected by the officers described in sections 17 to 21 of the act have authority and power to serve a subpoena or other process.

History: 1954 ACS 93, p. 5, Eff. Nov. 5, 1977.

R 14.53 Notice of intended action; "positive action to cease and desist" defined.

Rule 3. (1) Unless otherwise waived by the court upon good cause shown, the attorney general shall 10 days prior to the commencement of an action under section 5 of the act, serve a notice of intended action upon the person or persons named therein which shall advise the person or persons:

(a) Of the opportunity to confer with the attorney general in person or by other authorized representative or a stated member of the staff, or

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(b) Of the opportunity to cease and desist or take positive action to cease and desist from the alleged unlawful methods, acts, or practice, and,

(c) That an action is about to be commenced against the person or persons named in the notice.

(2) The 10-day period shall begin to run from the time the person or persons receive the notice.

(3) A notice may be served upon a person either personally or by certified mail, return receipt requested.

(4) A notice shall be followed by either the commencement of an action, an assurance of discontinuance, or a determination of no cause for action.

(5) For the purposes of this rule, "Positive action to cease and desist" means that the person to whom the notice is directed shall immediately upon receipt begin a course of conduct leading to the complete and total cessation of the alleged methods, acts, and practices; and, in fact, such cessation actually occurs within a reasonable period of time.

History: 1954 ACS 93, p. 5, Eff. Nov. 5, 1977.

R 14.54 Investigation; subpoena; confidentiality of information; disclosure; copies of documents and reported testimony; representation by counsel of person compelled to appear; investigative agent; powers and duties; "investigative agent" defined.

Rule 4. (1) Investigations of a violation of the act may be initiated by the attorney general, or by other governmental agencies or persons specified in sections 15, 17, 18, 19, 20, and 21 of the act.

(2) Any person may request the attorney general to institute an investigation in respect to any matter over which the attorney general has jurisdiction. Such request may be in the form of a signed statement setting forth the alleged violation of the act with such supporting information as is available and the name and address of the person or persons complained of. No forms or formal procedures are required. A complaint from the public may also be treated by the attorney general as a request for an investigation.

(3) The attorney general or prosecuting attorney may make an application for a subpoena in aid of an investigation under the act.

(4) The receipt of testimony or documentary material pursuant to a subpoena is hereby designated as an investigational proceeding, which shall be either electronically or stenographically recorded or identified in case of documentary material.

(5) All information obtained as the result of a subpoena shall be confidential to the office of the attorney general or prosecuting attorney. A request for disclosure by such persons as are authorized access thereto shall be in writing setting forth the description of the information sought, the persons to whom it relates, and the use to which it will be put. The attorney general or prosecuting attorney may decline access upon determination that disclosure is not in the public interest. Upon a determination that the information may be disclosed to such authorized persons, the attorney general or prosecuting attorney may require that the actual costs of reproduction thereof be borne by the person seeking access. An order of the court of competent jurisdiction requiring access and disclosure shall be presumed to be in the public interest.

(6) Upon determination by the attorney general that disclosure to an authorized person is appropriate under the act, the attorney general shall notify the person who supplied the information or materials pursuant to a subpoena of the identity of the person seeking the *information and materials*, and that it shall be disclosed

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to that person 10 days from the date of the notice. The notice shall be given by certified mail, return receipt requested.

(7) Any person compelled to produce documentary material or to testify in response to a subpoena may retain or, on payment of prescribed costs of copying, procure a copy of any document submitted by him and of his own testimony as reported.

(8) Any person compelled to appear in person may be accompanied, represented, and advised by counsel as follows:

(a) The counsel for a person shall file with the attorney general an appearance setting forth that the attorney is representing that person.

(b) Counsel for a person may advise his client, in confidence and upon the initiative of either himself or the person, with respect to any question asked of the person, that the person refuse to answer a question. Then counsel may briefly state on the record that he has advised the person not to answer the question and the legal grounds for such refusal.

(c) Where it is claimed that the testimony or other evidence sought from a person is outside the scope of the subpoena or investigation, or that the person is privileged to refuse to answer the question or to produce other evidence, counsel for the person may object on the record to the question or requirement and may state briefly and precisely the grounds therefor.

(d) Following the completion of an examination of a person, the person may on the record be given an opportunity to clarify answers which may need clarification, in order that they may not be left equivocal or incomplete.

(9) For the purposes of conducting an investigation pursuant to section 7 of the act, an investigative agent of the attorney general is hereby authorized to administer oaths and affirmations and conduct investigations, including taking of testimony and receiving documentary material produced by a person.

(10) An "investigative agent" means a regular civil service employee appointed by the attorney general as an investigator whose duties, functions, and responsibilities include the investigation of any civil or criminal law.

History: 1954 ACS 93, p. 6, Eff. Nov. 5, 1977.

R 14.55 Assurance of discontinuance.

Rule 5. (1) When the attorney general or prosecuting attorney has information indicating that a person or persons may have engaged, are engaging, or are about to engage in a method, act, or practice which may involve violation of the act, and if he deems the public interest shall be fully safeguarded thereby, may afford such person or persons the opportunity to negotiate informally an assurance of discontinuance.

(2) In determining whether the public interest shall be safeguarded by such assurance, the attorney general or prosecuting attorney shall consider:

(a) The nature and gravity of the alleged violation.

(b) The prior record and good faith of the parties involved.

(c) Other factors, including, where appropriate, adequate assurance of voluntary compliance.

(3) An assurance of discontinuance is accepted and final upon signing by the attorney general or prosecuting attorney.

(a) It shall include:

(i) A description of the methods, acts, and practices which a person agrees to permanently discontinue.

(ii) A reference to the provisions of the act or these rules as are applicable.

(iii) A statement that the person does not admit any issue of law or fact.

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(b) In addition, the assurance may include:

(i) An agreement to pay the costs of investigation.

(ii) An agreement to hold in escrow an amount pending the outcome of litigation.

(iii) An agreement for an amount of restitution to an aggrieved person.

(4) An assurance may not be introduced in any other proceeding brought by a person other than the parties to the assurance who may introduce it in a proceeding to modify its terms or to enforce its terms in whole or in part.

History: 1954 ACS 93, p. 7, Eff. Nov. 5, 1977.

R 14.56 Prosecuting attorney; powers and duties.

Rule 6. A prosecuting attorney may initiate and conduct investigations, make ex parte application to the circuit court for a subpoena, and seek such relief as provided in sections 5, 6, 7, 8, 10, and 15 of the act in the same manner and subject to the same restrictions as the attorney general, provided:

(a) Prior to making the application for the subpoena, or the filing of an action, the prosecutor gives to the attorney general 15 days' notice that he, the prosecutor, intends to make such an application or file an action. The 15-day notice may be waived by the attorney general.

(b) The notice shall contain:

(i) The identity of the person or persons against whom the action is to be commenced or the subpoena is to be served or enforced.

(ii) A description of the alleged violation of the act or these rules.

(iii) A brief statement of the relief to be sought.

(iv) If known, a statement of any past or pending actions or subpoenas brought or served against such person under the act.

(c) A legal action shall not be commenced with respect to any course of action taken in good faith reliance upon the ruling, where all relevant facts were fully, completely, and accurately presented to the attorney general.

History: 1954 ACS 93, p. 7, Eff. Nov. 5, 1977.

R 14.57 Declaratory ruling.

Rule 7. (1) Any person may request a ruling from the attorney general as specified in section 63 of Act No. 306 of the Public Acts of 1969, being §24.263 of the Michigan Compiled Laws, with respect to a course of action to determine whether the action is in compliance with the act or these rules. It is the policy of the attorney general to consider such requests and, where practical, make such a ruling. A request for a ruling shall ordinarily be considered inappropriate where:

(a) The same, or substantially the same, course of action is under investigation or is, or has been, the subject of a current action, order, judgment, or decree initiated or obtained by the attorney general, a prosecuting attorney, or another governmental agency.

(b) The course of action, or its effects, may be such that an informed decision thereon cannot be made or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

(2) A request for a ruling shall be submitted in writing to the attorney general and include full and complete information regarding the course of action. Citations of legal authority supporting the theory or position of the requester may accompany the request.

(3) Any ruling given is without prejudice to the right of the attorney general to reconsider the questions involved, and where the public interest requires, to prospectively change the ruling. *Sixty days' notice of* prospective change shall be

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given to the requester so that the person may discontinue the course of action taken in reliance upon the ruling.

History: 1954 ACS 93, p. 7, Eff. Nov. 5, 1977.

R 14.58 Request for evidence of facts on which claims made to consumers are based.

Rule 8. To implement section 5(2) of the act, in connection with a determination to issue a notice of intended action or initiation of an investigation pursuant to a determination of violation of a provision of the act or these rules, the attorney general or a prosecuting attorney may make written request to a person doing business in Michigan, or in whose behalf claims are made to consumers in Michigan, to provide to the attorney general or prosecuting attorney making the request evidence of the facts on which such claims are based, if such claims:

(a) Purport to be based on factual, objective, or clinical evidence, or that

(b) Compare that product's or service's characteristics, ingredients, uses, benefits, effectiveness, price, or safety to that of other products or services, except to the extent such claims are statements of opinion.

History: 1954 ACS 93, p. 8, Eff. Nov. 5, 1977.

R 14.59 Complaint.

Rule 9. (1) Any person may complain to the attorney general or prosecuting attorney, alleging an actual or suspected violation of the act or these rules. The complaint shall be in writing on the form prescribed or approved by the attorney general. A person, upon signing the complaint, verifies that the facts set forth therein are true to the best of his information, knowledge, and belief.

(2) A complaint form shall include:

(a) The name, address, telephone number, and zip code of the complainant and respondent.

(b) A space for the identification of the subject matter of the complaint, by violation code number.

(c) A space for the identification of the respondent, by standard industrial classification number.

(d) A space for the identification of the property or services involved, by a standard keyword.

(e) The name and address of the agency receiving the complaint.

(3) A complaint, or a record thereof, filed with a prosecuting attorney shall be promptly duplicated and a copy shall be forwarded to the attorney general, consumer protection division.

(4) A complaint filed with a prosecuting attorney shall be a public record and be open for inspection in the same manner as public records of the attorney general and as provided in these rules.

History: 1954 ACS 93, p. 8, Eff. Nov. 5, 1977.

R 14.60 Publication of information; subscription; fees; waiver.

Rule 10. (1) The consumer protection division shall publish, on a subscription basis, the following information:

(a) Rules promulgated pursuant to the act.

(b) Copies of final judgments rendered under the act, provided to the division by clerks of the courts pursuant to section 12(1) of the act.

(c) Assurances of discontinuance.

(d) Declaratory rulings rendered by the attorney general.

(e) Forms prescribed by the attorney general.

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(2) A person desiring to subscribe to the information set forth in subrule (1) shall forward to the consumer protection division a written request therefor setting forth therein the material to which subscription is sought, and accompanying the request a fee in the appropriate amount, which fee shall be determined by reference to subrule (3). The division shall determine the correctness of the fee and may advise the person as to the correct fee. Failure to pay the correct fee shall be sufficient grounds to reject the request for subscription.

(3) The following fees shall be paid by a person annually:

(a) One of the items in subrule (1)	$ 25.00
(b) Two of the items in subrule (1)	$ 50.00
(c) Three of the items in subrule (1)	$ 75.00
(d) Four of the items in subrule (1)	$100.00
(e) All material described in subrule (1)	$125.00

History: 1954 ACS 93, p. 8, Eff. Nov. 5, 1977.

R 14.61 Investigation by regulatory board or officer.

Rule 11. (1) Whenever a regulatory board or officer identified in sections 17 to 21 of the act proposes to conduct an investigation, requiring the use of a subpoena to be issued under the act, of a method, act, or practice for which the board or officer has probable cause to believe there is a violation of the act or a rule promulgated thereunder, the regulatory board or officer shall:

(a) File with the attorney general an application therefor, stating in substance:

(i) The person or persons to be subpoenaed.

(ii) A reasonably precise description of the documentary material to be produced.

(iii) A reasonably precise description of the method, act, or practice to be investigated.

(iv) The pertinent provisions of the act or rule which the method, act, or practice violates.

(v) What steps have been taken to secure the recordation or transcription of testimony taken and who shall bear the costs thereof.

(vi) What safeguards shall be undertaken to keep confidential any documentary material or information obtained, describing what procedures shall be followed to prevent such material or information from being disclosed to any other person than the board or officer or the attorney general.

(b) Designate from among the staff of the board or officers an investigating officer or officers who shall be in charge of conducting the investigation pursuant to the subpoena.

(c) Take such steps and procure, if necessary, such devices to secure from public inspection or copying any material or information obtained under subpoena, except as otherwise provided in section 7(6) of Act No. 331 of the Public Acts of 1976, being §445.907(6) of the Michigan Compiled Laws.

(2) A regulatory board or officer specified in sections 17 to 21 of Act No. 331 of the Public Acts of 1976 shall not disclose any documentary material or information to any person, unless consented to by the attorney general.

(3) Upon conclusion of an investigation, the regulatory board or officer specified in sections 17 to 21 of Act No. 331 of the Public Acts of 1976 shall make a full report to the attorney general, which report shall contain as a minimum:

(a) The identity of the person or persons investigated.

(b) A summary of the information obtained, or in lieu thereof, complete and legible copies of all transcriptions, reports, and documentary material.

(c) A concise statement *of any alleged violations* of the act, together with a

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reference to any support therefor, found in any testimony or documentary material.

(d) A concise statement of a proposed course of action.

(e) Recommendation for action.

History: 1954 ACS 93, p. 9, Eff. Nov. 5, 1977.

R 14.62 Public records.

Rule 12. (1) All records compiled, received, or maintained by the consumer protection division are public records, except those otherwise exempt pursuant to Act No. 331 of the Public Acts of 1976 and Act No. 442 of the Public Acts of 1976.

(2) Upon submitting an oral or written request which describes the record sufficiently to enable the appropriate staff member of the attorney general to find the record, a person has the right to inspect, copy, or receive copies of the record.

(3) A person may subscribe to future issuances of public records which are issued on a regular basis. A subscription shall be valid for 6 months and shall be renewable.

(4) Records may be inspected during regular office hours at a place designated by the attorney general, which shall, as far as possible, be convenient to the person who wishes to inspect the record.

(5) Where a request to inspect a public record is made, the attorney general may, with consent of the party requesting the record, provide the person with a copy of the record without charge in lieu of providing a place for inspection. Where a person requests 1 or more copies of a public record and the cost of providing copies is substantial, a reasonable fee may be imposed, but such fee shall not exceed the maximum charges allowable by section 4 of Act No. 442 of the Public Acts of 1976, being §15.234 of the Michigan Compiled Laws.

(6) Where more than 1 person wishes to inspect the same public record at the same time, the attorney general may limit the number of persons who may inspect the record at 1 time to a reasonable number.

(7) A person inspecting a record shall not write anything upon the record nor fold nor mutilate it. Violation of this requirement shall subject a person to criminal penalties imposed by section 491 of Act No. 328 of the Public Acts of 1931, as amended, being §750.491 of the Michigan Compiled Laws.

(8) A person inspecting a public record shall promptly return the record to the custodian after completion of the inspection.

History: 1954 ACS 93, p. 9, Eff. Nov. 5, 1977.

PRICING AND ADVERTISING OF CONSUMER ITEMS

(By authority conferred on the attorney general by section 9(6) of Act No. 449 of the Public Acts of 1976, being §445.359(6) of the Michigan Compiled Laws)

R 14.201 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 449 of the Public Acts of 1976, being §445.351 et seq. of the Michigan Compiled Laws.

(b) "Clearance sale" means an offer by a person to sell all offered in-stock consumer items at a price reduced from that person's regular price if the person intends to sell out all such items during the advertised period of sale, but will nevertheless reorder the same or substantially similar items to be again sold by that person not less than 90 days after the reorder.

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(c) "Close out sale" means an offer by a person to sell offered in-stock consumer items at a price reduced from the person's regular price if consumer items will not be offered by that person again due to various factors, such as:

(i) The item is no longer manufactured.

(ii) The source of supply is out of business.

(iii) The person unilaterally refuses to carry the item.

(d) "Raincheck" means a written guarantee to deliver a specific consumer item.

(e) "Sale price" means a price offer for a consumer item appearing in advertising by use of the word "sale," or words of similar meaning, which suggest to a reader, listener, or viewer that the consumer item is being offered for purchase at a reduction in price, at a bargain price, or at a savings compared with some other person's or the advertiser's regular or customary higher price.

History: 1954 ACS 98, p. 5, Eff. Aug. 1, 1978.

R 14.202 Sale or reduced price advertisements; disclosures.

Rule 2. An offer of a consumer item, except baked goods, fresh fruit, and fresh vegetables as provided in section 5(4) of the act, for retail sale at a sale price, special price, or at a price reduced by an amount or proportion, by means of an advertisement disseminated in the trade area served by any of the advertisers' retail outlets covered by the advertisement, shall disclose clearly and conspicuously, in conjunction therewith, either of the following:

(a) The dates the consumer item is available for purchase.

(b) The numerical quantity available for each consumer item, and where there is a limitation on how many of the advertised consumer items may be purchased by any 1 person, a statement in numerical amount of how many a consumer may buy of each advertised consumer item.

History: 1954 ACS 98, p. 5, Eff. Aug. 1, 1978.

R 14.203 Disclosing exceptions, limitations, or restrictions; rainchecks and substitutions.

Rule 3. (1) If an advertisement does not state the quantity of a consumer item available, and the consumer item cannot be sold throughout the advertised period of sale, the advertisement shall disclose all the seller's exceptions, limitations, or restrictions with respect to stores, consumer items, or prices otherwise included in the advertisement, and the advertiser shall make available a raincheck which obligates the advertiser to deliver and sell to the consumer in possession of the raincheck the consumer item specified in the raincheck, at the advertised price stated in the raincheck, and at the future date stated in the raincheck, not in excess of 90 days, or at an earlier time upon notification to the consumer by the advertiser. After notification to the consumer is given, the advertiser may dispose of the item upon failure of the consumer to pick up the item in the time specified in section 5(2) of the act.

(2) An advertiser, instead of providing the consumer with a raincheck, may substitute for the unavailable advertised consumer item a similar consumer item of equal or greater monetary value. This rule does not modify a person's obligations under section 5(3) of the act.

(3) If an advertiser elects to substitute a consumer item of equal or greater monetary value because the advertiser is unable to redeem a raincheck due to the unavailability of the advertised consumer item, the advertiser may substitute either a similar item bearing a substantially equivalent regular price at the advertised lower price, or a similar item bearing a higher regular price at a price equal to the regular price of the higher-priced item, less the percentage reduction offered for the unavailable consumer item.

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Example: An advertisement indicates a consumer item regularly sells for $50.00, but is on sale this week for only $30.00. The advertiser does not disclose the quantity available. The advertiser runs out of the advertised item during the period of sale and knows that the item cannot be obtained again to redeem a raincheck. The advertiser may then offer to a consumer either of the following substitute similar items:

(a) Another similar $50.00 item at $30.00.

(b) Another similar item regularly selling for $75.00 at a comparable savings or reduction in price; that is, 40% off or $45.00.

(4) An advertiser shall not limit the obligation to redeem a raincheck by including a date in a raincheck less than 90 days from the date of the raincheck. For example, a raincheck which provides for its redemption on or before a date less than 90 days thereafter is insufficient compliance with the act if the purpose of the earlier date is to evade compliance in the event the guarantee cannot be honored in the shorter time. An advertiser may, however, redeem the raincheck earlier than 90 days upon notification to the consumer.

(5) A raincheck shall contain, but not be limited to, the following:

(a) Space for a description of the unavailable item.

(b) Space for the price to be paid for the unavailable item of the consumer.

(c) Space for the signature or initials of a person authorizing the raincheck.

(6) The raincheck shall be executed in duplicate, 1 copy to be given to the consumer, the other to be retained by the merchant.

History: 1954 ACS 96, p. 5, Eff. Aug. 1, 1978.

R 14.204 Successive advertisements.

Rule 4. Where an advertiser disseminates successive advertisements, either to the same or different consumer groups, and each advertisement contains the disclosures required by section 5 of the act and these rules, the advertiser is not obligated to recount or redetermine the quantity of consumer items then remaining available for each successive advertisement if the advertiser clearly and conspicuously discloses that the consumer items advertised and available in the quantities stated are subject to prior sale due to previous advertising during prior periods of time, and states the date the advertising first appeared.

History: 1954 ACS 96, p. 6, Eff. Aug. 1, 1978.

R 14.205 Determination of violation.

Rule 5. In determining whether a violation of the act has occurred, the following shall be considered:

(a) All circumstances surrounding nondelivery of advertised consumer items which were actually ordered in quantities sufficient to meet, or are reasonably related to the intended response to, the advertisement, but were not delivered due to circumstances beyond the advertiser's control.

(b) All circumstances surrounding failure to make advertised consumer items conspicuously and readily available for sale at or below the advertised prices if the consumer items were not made available at those prices due to circumstances beyond the control of the advertiser. In such cases, the making available of a raincheck shall be considered; however, the mere existence of a "policy" to provide a raincheck, in and of itself, does not constitute compliance.

(c) Whether the advertiser instructed each of the advertiser's employees, agents, or servants of the existence of a raincheck; whether the advertiser required those persons to inform consumers of its availability; whether, upon learning of

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the unavailability of a particular consumer item, the advertiser posted a notice, proximate to the location of the unavailable item, stating the procedure for obtaining a raincheck; and whether the advertiser posted, in a clear and conspicuous central location in the advertiser's store, a notice respecting the store's obligations to deliver a raincheck or substitute.

History: 1954 ACS 98, p. 6, Eff. Aug. 1, 1978.

R 14.206 Catalogs, media commercials, circulars, or newspaper inserts prepared prior to dissemination.

Rule 6. (1) When an advertiser prepares, or causes to be prepared, an advertisement in the form of a catalog, television or radio commercial, circular, or an insert to a newspaper, which advertisement must be printed or submitted not less than 10 days prior to its dissemination to the public, and the advertisement offers to sell consumer items at a sale price, a special price, or at a price reduced by an amount or proportion, and the consumer items are readily and conspicuously made available for sale at a price other than the advertised sale price, special price, or reduced price during the interim period between the time of printing and the dissemination of the advertisement to the public, the advertiser is not required to disclose in the advertisement the numeric quantity available if the advertiser:

(a) Clearly and conspicuously discloses the period of time the consumer items are available for sale.

(b) Makes available a raincheck to any person who seeks to purchase the consumer item during the advertised period of sale, or substitutes an equal or greater monetary value for the advertised item, if the consumer items are not intended to be liquidated as part of a clearance or close out sale, or a sale of similar import or meaning.

(2) Where the consumer items are not made readily and conspicuously available for sale during the interim period, the advertiser may, instead of subrule (1)(a) and (b) above, disclose the numeric quantity available at time of sale.

History: 1954 ACS 98, p. 7, Eff. Aug. 1, 1978.

R 14.207 Clearance and close out sales.

Rule 7. (1) In connection with advertising offering consumer items pursuant to either a clearance or close out sale, where the advertiser is, or will be, unable to either give a raincheck or substitute an item of equal or greater monetary value, the advertiser shall disclose the quantity on hand and available during a disclosed period of sale. However, where the sale is announced in an advertisement required to be produced not less than 10 days prior to publication, the numeric quantity to be disclosed is that amount on hand at the time of preparation of the advertisement if the sale items are in fact made readily and conspicuously available for sale during the interim period between preparation and publication and the advertisement discloses as of what date that numeric quantity was determined; but if the sale items are not made readily and conspicuously available during the interim period, then the numeric quantity stated in the advertisement shall be equal to the greater of those actually on hand at time of preparation of the advertisement or actually on hand at time of publication.

(2) In connection with a "clearance" or "close out" sale, an advertiser with more than 1 store, branch, or outlet participating in the sale shall make readily and conspicuously available in each store, branch, or outlet a reasonable number of each consumer item subject to the sale, unless a disclaimer, as provided in R 14.208(2)(a) or (b), is set forth.

History: 1954 ACS 98, p. 7, Eff. Aug. 1, 1978.

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R 14.208 General and specific disclaimers; evasions of act or rules.

Rule 8. (1) General disclaimers in advertising relating to product availability shall not constitute compliance with the disclosure provisions of the act or these rules where the disclaimers, when used, are relied upon by a participating dealer or store to evade the obligations imposed by the act or these rules. Examples of such "general disclaimers" include the following:

(a) "Not all items available at all stores."

(b) "Available at most stores."

(c) "Available at participating stores."

(2) Specific disclaimers in advertising relating to consumer item availability only in certain stores are in compliance with the disclosure requirements of the act and these rules. Examples of a specific disclaimer include the following:

(a) "Available only at stores featuring delicatessen departments."

(b) "Available at the following participating stores: (name and address of each)."

(3) In determining whether a clearance or close out sale is used as a device to evade the act or these rules, the following criteria shall be considered:

(a) Whether the advertiser regularly or repeatedly uses the terms "clearance sale" or "close out sale" in connection with advertising of consumer items.

(b) Whether the advertiser has in fact made readily and conspicuously available for sale all of the consumer items offered as part of the clearance or close out sale.

(c) Whether the clearance or close out sale is merely a temporary reduction in prices, and there is an increase in prices on the same consumer items after the sale.

(d) Whether the advertiser has, prior to or during the sale, ordered or acquired all or part of the advertised consumer items, other than from existing inventory, for the purposes of the sale.

(e) Whether the advertiser has reordered the consumer items which are the subject of the sale for the purposes of replacing the inventory of sold items so as to make them available for sale within 90 days of the advertised clearance or close out sale.

(4) In order to avoid leading a consumer to believe, in connection with an advertisement disclosing numerical quantities where more than 1 store, outlet, or dealership is participating, that each store, outlet or dealership has in fact the numerical quantity listed for the consumer item, and in fact there is a variance in quantity among such store, outlets, or dealerships, the advertiser may do either of the following:

(a) Have readily and conspicuously available in each store, outlet, or dealership a reasonable number of each consumer item subject to the sale advertising.

(b) Provide to each store, outlet, or dealership a quantity of consumer items equal to the quantity disclosed for each item.

History: 1954 ACS 96, p. 7, Eff. Aug. 1, 1978.

R 14.209 Enforcement and administration of act and rules.

Rule 9. (1) The act and rules shall be enforced and administered by the department of attorney general, consumer protection division, or such other division of the department as from time to time is designated by the attorney general.

(2) The consumer protection division is located at the Law Building, Lansing, Michigan 48913.

History: 1954 ACS 96, p. 8, Eff. Aug. 1, 1978.

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R 14.210 Assurance of discontinuance.

Rule 10. (1) When the attorney general or prosecuting attorney has information indicating that a person may have engaged, is engaging, or is about to engage in a method, act, or practice which may involve violation of the act, and if he deems the public interest shall be fully safeguarded thereby, the attorney general or prosecuting attorney may afford the person the opportunity to negotiate informally an assurance of discontinuance.

(2) In determining whether the public interest is safeguarded by an assurance of discontinuance, the attorney general shall consider:

(a) The nature and gravity of the alleged violation.

(b) The prior record and good faith of the parties involved.

(c) Other factors, including, where appropriate, adequate assurance of voluntary compliance.

(3) An assurance of discontinuance is accepted and final upon signing by the attorney general or prosecuting attorney.

(4) An assurance of discontinuance shall include:

(a) A description of the methods, acts, and practices which a person agrees to permanently discontinue.

(b) A reference to applicable provisions of the act or these rules.

(c) A statement that the person does not admit an issue of law or fact.

(5) An assurance of discontinuance may include:

(a) An agreement to pay the costs of investigation.

(b) An agreement to hold in escrow an amount pending the outcome of litigation.

(c) An agreement for an amount of restitution to an aggrieved person.

(6) An assurance of discontinuance shall not be introduced in a proceeding by a person other than a party to the assurance, who may introduce it in the proceeding to modify its terms or to enforce its terms in whole or in part.

History: 1954 ACS 96, p. 8, Eff. Aug. 1, 1978.

R 14.211 Declaratory ruling.

Rule 11. (1) A person may request a declaratory ruling from the attorney general as specified in section 63 of Act No. 306 of the Public Acts of 1969, being §24.263 of the Michigan Compiled Laws, with respect to determining whether a course of action is in compliance with the act or these rules. The attorney general shall consider the requests and, where practical, make a declaratory ruling. A request for a declaratory ruling is inappropriate where:

(a) The same, or substantially the same, course of action is under investigation, or is, or has been, the subject of a current action, order, judgment, or decree initiated or obtained by the attorney general.

(b) The course of action, or its effects, may be such that an informed decision thereon cannot be made, or can be made only after extensive investigation, clinical study, testing, or collateral inquiry.

(2) A request for declaratory ruling shall be submitted in writing to the attorney general, and shall include full and complete information regarding the course of action. Citations of legal authority supporting the theory or position of the requester may accompany the request.

(3) A declaratory ruling given by the attorney general is without prejudice to the right of the attorney general to reconsider the questions involved, and, where the public interest requires, to prospectively change the ruling. Sixty days' notice of a prospective change in a declaratory ruling shall be given to the requester so that a person may discontinue a course of action taken in reliance upon the ruling.

History: 1954 ACS 96, p. 8, Eff. Aug. 1, 1978.

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EXECUTIVE OFFICE

BOARD OF ETHICS

PRACTICE AND PROCEDURE

(By authority conferred on the board of ethics by section 6 of Act No. 196 of the Public Acts of 1973, being §15.346 of the Michigan Compiled Laws)

R 15.1 Definitions.

Rule 1. (1) "Act" means Act No. 196 of the Public Acts of 1973, being §§15.341 to 15.348 of the Michigan Compiled Laws. Terms defined in the act have the same meanings when used in these rules.

(2) "Advisory opinion" means an opinion of the board concerning the possible unethical conduct of the person requesting the opinion or the possible unethical conduct of an employee or public officer working under the jurisdiction or supervision of the person requesting the opinion.

(3) "Complaint" means a written document charging a public officer or employee with a violation of the act.

(4) "Complaint decision" means a determination of unethical conduct by a public officer or employee made by the board on the complaint of a person or entity.

(5) "Executive secretary" means the person designated as such in accordance with subsection (3) of section 4 of the act.

History: 1954 ACS 93, p. 10, Eff. Nov. 15, 1977.

R 15.2 Complaints and answers.

Rule 2. (1) The complaint shall be in writing and acknowledged before a person authorized to administer oaths. The complainant shall certify that he has read the complaint and knows its contents, and that the same is true of his own knowledge, except as to those matters stated to be on the information and belief, and as to those, he believes them to be true.

(2) A complaint shall be filed at the board office with the executive secretary, who shall serve a copy of the complaint upon the person charged.

(3) Within 15 days after service of the complaint upon him, the respondent shall file his written verified answer with the executive secretary who shall serve a copy upon the complainant.

(4) Upon expiration of the time provided for answer, the executive secretary shall present the complaint and answer to the board for its consideration at its next scheduled meeting. Upon presentation of a complaint and answer, the board may direct the executive secretary or attorney general to make inquiry as to any factual allegations therein. The results of the inquiry are confidential until revealed by the board.

History: 1954 ACS 93, p. 10, Eff. Nov. 15, 1977.

R 15.3 Probable cause.

Rule 3. (1) At any time, the board may determine on its own initiative that it lacks jurisdiction or that there is no probable cause to believe that a violation has occurred or is occurring, and dismiss the complaint stating the reasons in its order. The executive secretary shall transmit copies of the dismissal order to the complainant, the respondent, and such other persons as the board directs.

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(2) If the board determines that probable cause exists to believe that a violation has occurred or is occurring and that a substantial question of fact has been presented, it shall schedule a public hearing on the complaint.

History: 1954 ACS 93, p. 11, Eff. Nov. 15, 1977.

R 15.4 Notice of public hearing.

Rule 4. Not less than 30 days before the date of the public hearing, the executive secretary shall notify, by certified mail, the complainant, the respondent, the appointing authority of the respondent, and such other persons as the board may direct. The notice shall state the time, place, and date of the hearing and shall set forth:

(a) The provision of the act claimed to have been violated.

(b) The nature of the conduct alleged to constitute a violation.

(c) The name and position of the complainant.

(d) A statement that the hearing will be public, that the parties may be represented by counsel, that the parties may present witnesses, that all witnesses may be sworn and subjected to cross-examination and that the board may request the attendance of witnesses whose testimony, in the judgment of the board, will aid in the conduct of the investigation.

History: 1954 ACS 93, p. 11, Eff. Nov. 15, 1977.

R 15.5 Advisory opinions.

Rule 5. (1) A request for an advisory opinion shall be filed at the board office with the executive secretary who shall present it to the board for consideration at its next scheduled meeting. Requests for advisory opinions need not be verified.

(2) Upon presentation of a request, the board may direct the executive secretary or attorney general to make inquiry as to any information therein. The results of the inquiry are confidential until revealed by the board.

(3) At its discretion, the board may schedule a public hearing on a matter raised in a request for an advisory opinion.

History: 1954 ACS 93, p. 11, Eff. Nov. 15, 1977.

R 15.6 Investigations by the board.

Rule 6. (1) On its own initiative, the board may direct the executive secretary or request the attorney general to make an informal investigation of any practice that could affect ethical conduct of a public official or employee. The investigation and its results shall not be disclosed except to the board and the persons making the investigation shall take all actions reasonably necessary to maintain the confidentiality of the investigation.

(2) Upon completion of the investigation, if the board determines that there is reasonable cause to conclude that the practice could affect ethical conduct of a public officer or employee and that substantial factual matters are in dispute, it shall schedule a public hearing on the practice. The executive secretary shall send notices of the hearing to all those determined by the board to be parties in interest. If the board determines that there is no reasonable ground to conclude that the practice could affect ethical conduct, it shall terminate the investigation and the executive secretary shall give prompt written notice of the termination to all persons of whom inquiry was made. The board may issue a report of its actions.

History: 1954 ACS 93, p. 11, Eff. Nov. 15, 1977.

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R 15.7 Hearings.

Rule 7. (1) Hearings may be held before the entire board, before 1 or more designated voting members of the board, or before a hearing officer designated to conduct the hearing. The chairman of the board, or in his absence the members of the board, shall appoint the hearing officer or presiding officer. A member of the board, a hearing officer, agent or employee of the board shall not have direct or indirect ex parte communication with any person in connection with any issue involved in a hearing except with other members of the board or its agents or employees.

(2) The presiding or hearing officer shall regulate the conduct of a hearing, administer oaths, request the attendance and testimony by witnesses and the production of books, papers, and other documentary evidence, fix the time and form for the submission of evidence or argument, and adjourn a hearing for good cause to such time, date, and place as he determines to be appropriate. The rules of evidence applicable in the courts of the state need not be applied strictly in any hearing. At the conclusion of the hearing, the presiding or hearing officer may request additional evidence or written argument concerning the subject matter to be submitted within such time and form as he directs. The additional evidence or argument shall be disclosed to all interested parties.

(3) The complainant, the person requesting an advisory opinion, or the attorney general, as determined by the board, shall have the burden of proving the alleged unethical conduct. The respondent shall have the right to be present, to be represented by counsel, to testify, to produce and examine witnesses, to cross-examine adverse witnesses, and to introduce such other evidence as may be material and relevant to the issues.

(4) All proceedings shall be recorded but need not be transcribed unless requested by the board or a party. The board shall determine the amount and source of payment for the transcript. The board shall prepare an official record of such hearing which shall include the notice of hearing, all documents considered by the board and may also include a transcript of evidence presented at the hearing.

History: 1954 ACS 93, p. 11, Eff. Nov. 15, 1977.

R 15.8 Complaint decisions and advisory opinions.

Rule 8. (1) If the board finds from a preponderance of the evidence that a violation of the act has occurred or is occurring, if the case was initiated by a complaint or by investigation of the board on its own initiative, the board shall issue a written complaint decision specifying its recommended action; or if the case was initiated by a request for an advisory opinion, the board shall issue an advisory opinion. The board shall transmit a copy of the complaint decision or advisory opinion to the person whose conduct is involved, to the appointing authority of the person whose conduct is involved, to the person requesting the advisory opinion, and to such other persons as the board deems appropriate.

(2) If the board finds that a violation of the act has not occurred or is not occurring, it shall issue an opinion to that effect and dismiss the complaint or terminate the investigation. The board shall transmit a copy of the advisory opinion and order of dismissal or termination to all parties and to such other persons as the board deems appropriate. After the determination and for the protection of individual rights, the executive secretary, at the direction of the board, shall suppress or expunge all records and files concerning any dismissed complaint or terminated investigation.

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(3) The board shall publish its decisions and opinions, including dissents, and make them available for public inspection at its office and the state libraries.

History: 1954 ACS 93, p. 12, Eff. Nov. 15, 1977.

R 15.9 Meetings of board.

Rule 9. (1) The board shall hold regular meetings at least 4 times a year and such additional meetings as it deems necessary. All meetings of the board are open to the public except that the board may hold closed, deliberative sessions when, in the opinion of a majority of the board, it has reached the final deliberation stage of a proceeding based on a complaint, request for advisory opinion or investigation. In determining the propriety of a closed, deliberative session, the board shall consider whether the protection of individual rights is involved.

(2) The chairman shall preside at all meetings and in his absence the members of the board present at any meeting at which a quorum is present shall designate a temporary chairman to preside. The executive secretary shall record the minutes of all meetings and shall keep journals thereof. Minutes of closed, deliberative sessions shall be kept in a separate journal. The executive secretary shall distribute minutes of all public meetings to each member of the board and shall make them available to the public. The executive secretary shall stamp as confidential each page of minutes of closed, deliberative sessions and distribute them only to members of the board.

History: 1954 ACS 93, p. 12, Eff. Nov. 15, 1977.

R 15.10 Witnesses; fees.

Rule 10. Persons attending a meeting or hearing at the request of the board and any witness called by the respondent have the right to be accompanied and represented at all times by legal counsel. Witnesses called by the board are entitled to the fees allowed witnesses in the circuit court.

History: 1954 ACS 93, p. 12, Eff. Nov. 15, 1977.

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DEPARTMENT OF MANAGEMENT AND BUDGET

FEDERAL SURPLUS PROPERTY PROGRAM

(By authority of Act No. 139 of the Public Acts of 1961, being §18.251 et seq. of the Michigan Compiled Laws)

DEFINITIONS

R 18.1 "Federal surplus property" defined.

Rule 1. "Federal surplus property" means personal and real property, including equipment, materials, supplies, land and buildings declared surplus by an agency of the federal government and donated to the state for distribution and utilization within the state in accordance with the federal act.

History: 1954 ACS 38, p. 5, Eff. May 15, 1964.

R 18.2 "Federal surplus property section" defined.

Rule 2. "Federal surplus property section" means the organizational unit of the purchasing division of the state department of administration which has been designated to receive, warehouse and distribute federal surplus property for the state of Michigan.

History: 1954 ACS 38, p. 5, Eff. May 15, 1964.

R 18.3 "Federal act" defined.

Rule 3. "Federal act" means the federal property and administrative services act of 1949, Public Law No. 152 of 1949, as amended.

History: 1954 ACS 38, p. 5, Eff. May 15, 1964.

R 18.4 Eligible donees.

Rule 4. "Eligible donees"—Personal property may be acquired for educational purposes, including research, by tax supported school systems, schools, colleges or universities or nonprofit schools, colleges or universities. It may also be acquired for public health purposes, including research, by tax-supported or nonprofit medical institutions, hospitals, clinics, or health centers. Nonprofit institutions must be exempt from taxation under section 501(c)(3) of the 1954 Internal Revenue Code (or section 101(6) of the 1939 Internal Revenue Code). Personal property may also be acquired by civil defense organizations of political subdivisions and intrumentalities of a state which are established pursuant to state law. The act is specific with respect to the types of organizations which are eligible; types not mentioned above are not eligible to acquire federal surplus personal property through the donation program administered by the department of health, education and welfare.

History: 1954 ACS 38, p. 5, Eff. May 15, 1964.

R 18.5 "D. H. E. W." defined.

Rule 5. "D. H. E. W." means the United States department of health, education and welfare.

History: 1954 ACS 38, p. 5, Eff. May 15, 1964.

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RULES

R 18.11 General.

Rule 1. All rules and regulations of the state are superseded by the rules and regulations as promulgated by the federal act.

History: 1954 ACS 38, p. 5, Eff. May 15, 1964.

R 18.21 Eligibility.

Rule 2. (1) Health and educational institutions, requesting eligibility, shall contact the federal surplus property section, department of administration, Lansing, Michigan, for application forms:

(a) SASP Form #1 will be completed by the applicant for eligibility determination with eligibility questionnaire form SASP #19.

(b) SASP Form #1 will be completed by the applicant for eligibility determination with eligibility questionnaire form SASP #35.

(2) On the basis of the information submitted, the federal surplus property section will approve or disapprove the application, pursuant to the federal act. For borderline cases, the application will be forwarded to DHEW, who has the final authority for eligibility determination.

(3) Approved applicants will receive a certificate of eligibility with an identification card authorizing access to designated state warehouses for selection of surplus property.

(4) Civil defense organizations shall make application for certification of eligibility to the Michigan office of civil defense, Michigan state police, East Lansing, Michigan, on forms provided for this purpose. Upon notification of approval by the Michigan office of civil defense, the federal surplus property section will issue to the applicant, a certification of eligibility and an identification card authorizing access to designated state warehouse, for selection of surplus property.

History: 1954 ACS 38, p. 5, Eff. May 15, 1964.

R 18.31 Distribution of property.

Rule 3. Federal surplus property is secured by eligible donees, by selection at state surplus warehouses. The central warehouse is located at Jackson, Michigan, with regional warehouses at Cadillac and Escanaba, Michigan.

(a) Common-use items (handtools, furniture, hardware, textiles, office machines and supplies, etc.) shall be made available on a first-come, first-serve basis, within reasonable limits depending on the size and utilization possibilities of the applicant.

(b) Special equipment items (machine tools, motor vehicles, construction equipment, etc.) shall be made available on the basis of "want lists" of desired equipment which shall be submitted to the federal surplus property section in accordance with procedures established for this purpose. Available special equipment shall be distributed in chronological order according to date of receipt of the "want list". Emergency requests (due to fire, flood, tornado, disaster, etc.) will be given special consideration for "want list" property.

(c) Final authority. The federal surplus property section will make the final determination as to kind and quantity of personal property that may be received by health and educational eligibles, in accordance with the provisions of the federal act. Allocations to civil defense eligibles will be under the authority of the Michigan office of civil defense, Michigan state police.

(d) Removal. Donees receiving property are required to provide their own transportation in removing such property from the warehouses.

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(e) Limitations. The federal surplus property section reserves the right to limit the quantity of articles available for each donee, where such limitation results in a fair and equitable distribution of property in limited supply.

History: 1954 ACS 38, p. 6, Eff. May 15, 1964.

R 18.41 Service charges.

Rule 4. Service charges for all personal property received by an eligible donee shall be reasonable and sufficient to cover all administrative expenses incurred by the federal surplus property section. The amount of such charges will be indicated on the articles or bins containing articles located at the distribution warehouses. Such service charges shall be paid by the donee within 60 days after the date of billing. Failure to pay service charges within 60 days shall be sufficient cause to refuse distribution of additional property to the donee, until settlement is made.

History: 1954 ACS 38, p. 6, Eff. May 15, 1964.

R 18.51 Eligible donee contract.

Rule 5. (1) At the time of property transfer, a "warehouse application and delivery agreement (W.A.D.A.)" form will be signed by the eligible donee. The W.A.D.A. states the terms and conditions applicable to all property donated.

(2) The basic terms and conditions are as follows:

(a) The eligible donee will not sell, trade, lease, or otherwise dispose of any federal surplus property, or remove same from its premises or from the state of Michigan without prior approval of the federal surplus property section.

(i) In accordance with the federal act, all property with an original government acquisition cost of $2,500.00 or more must be used for health or educational purposes for a period of 4 years. After the use restriction has been completed, the donee then has free and clear title to the property.

(ii) On items with an original government acquisition cost of less than $2,500.00 the use restriction is 2 years.

(iii) Rules and regulations regarding the use of government surplus donated for civil defense purposes are governed by the Michigan office of civil defense and the federal office of civil defense.

(b) All property acquired by the eligible donee shall be on an "as is, where is basis" without warranty of any kind.

(c) The eligible donee agrees to all terms and conditions governing the transfer of federal surplus property, as set forth on the original certificate of eligibility, and in accordance with the rules of the federal act.

(d) The donee certifies that funds are available to pay the cost of care and handling incident to donation, including packing and handling, preparation for shipment, loading and transporting of such property.

History: 1954 ACS 38, p. 6, Eff. May 15, 1964.

R 18.61 Utilization.

Rule 6. (1) In accordance with the federal act, the federal surplus property section will make periodic on-site inspections of property donated for health and educational purposes. If the property is not being used for an eligible purpose, corrective action will be taken by the federal surplus property section or the DHEW, or both, in accordance with the federal act.

(2) Civil defense donee utilization inspection will be conducted by the Michigan office of civil defense.

History: 1954 ACS 38, p. 7, Eff. May 15, 1964.

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R 18.71 Real property.

Rule 7. (1) Real property may consist of land, land and buildings and appurtenant improvements; or buildings only, with or without accompanying and related personal property. It may be a portion or all of a surplus government installation.

(2) Real and related personal property may be acquired for educational use, or for use in the protection of public health, including research, by states and their political subdivisions and instrumentalities, by tax-supported institutions, and by nonprofit institutions which have been held exempt from taxation under section 101(6) of the 1939 Internal Revenue Code (or section 501(c)(3) of the 1954 Internal Revenue Code). Public libraries, water and sanitary units and vocational and medical rehabilitation centers may be eligible for real property.

(3) The federal surplus property section will receive real property offerings from DHEW on all available surplus real property located in the state of Michigan. At that time, all eligible donees in the area will be circularized relative to the availability of specific real property. All interested applicants should then notify, in writing, the federal surplus property section of their interest.

(4) Depending on the type of transfer, appropriate application formats will be given to all interested applicants. Upon completion of these applications, the federal surplus property section will forward the applications to DHEW.

(5) From this point forward, the federal surplus property section acts as a conduit for DHEW in carrying out the federal act with respect to real property. DHEW representatives are responsible under the federal act to make final determinations on all applications; and, DHEW executes the final transfer of title with the ultimate donee.

(6) All inquiries regarding real property transfers should be directed to the federal surplus property section.

History: 1954 ACS 38, p. 7, Eff. May 15, 1964.

OFFICE SERVICES DIVISION

MICROFILM STANDARDS

(By authority conferred on the department of administration by section 1 of Act No. 105 of the Public Acts of 1964 and section 102 of Act No. 380 of the Public Acts of 1965, being §§691.1101 and 16.202 of the Michigan Compiled Laws)

R 18.101 Scope.

Rule 1. (1) These rules establish minimum standards for microfilm recordings, processing, indexing and storage by all state agencies, political subdivisions and municipal courts of record.

(2) Cited throughout are standards approved by the American standards association. Copies of these standards are kept on file at the Department of Administration, Office Services Division, State Records Center, 3405 North Logan St., Lansing, Michigan. Copies of these standards are available from the American Standards Association, 10 East 40th St., New York 16, New York.

(3) Facilities are available at the records center to test the archival quality, density and resolution of processed microfilm.

History: 1954 ACS 47, p. 6, Eff. Aug. 14, 1968.

R 18.102 Definitions; A to D.

Rule 2. (1) Archival quality (archival standards) are standards of permanence for photographic films *established by the American* standards association. See

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ASA PH 1.28. There are separate standards for raw film and for processed film. See ASA PH 4.8 for method of determining thiosulfate content.

(2) Blurred is not sharp or distinct; an indistinct or double-outlined image is blurred.

(3) Burn-in is the act of exposing sensitized material or the act of increasing the exposure of a specific area of a sensitized material.

(4) Camera is a photographic device, employing an optical system, used for exposing light sensitive material.

(5) Camera, planetary (flat-bed) is a type of microfilm camera in which the document being photographed and the film remain in a stationary position during the exposure.

(6) Camera, rotary (flow) is a type of microfilm camera that photographs documents while they are being moved by some form of transport mechanism. The document transport mechanism is connected to a film transport mechanism, and the film also moves during exposure so there is no relative movement between the film and the image of the document.

(7) Camera microfilm is the microfilm used to take the photograph of the document, and is also called first generation microfilm.

(8) Densitometer is an instrument used to measure the density of film images.

(9) Density is the light-absorbing quality of a photographic image (degree of opacity for film and blackness for prints), usually as the logarithm of the opacity.

History: 1954 ACS 47, p. 7, Eff. Aug. 14, 1966.

R 18.103 Definitions; F to P.

Rule 3. (1) Field is the area covered or "seen" by the lens of a camera.

(2) Fog—nonimage photographic density is a defect due to the action of stray light, improperly compounded processing solutions, or wrongly stored or outdated photographic materials.

(3) Humidity is the degree of wetness of the atmosphere. Absolute humidity is the weight of water vapor contained in a given volume of air, as grains per cubic foot.

(4) Hypo, residual is the amount of ammonium or sodium thiosulfate (fixer) that remains in film or paper after washing.

(5) Indexing film is a system using targets, flash cards, lines, or bars, etc., for locating information appearing on a reel of microfilm. It enables rapid location of the section of film which contains the desired image on the reel without the necessity of examining each image sequentially.

(6) Lens is 1 or more pieces of optical glass precisely ground for the purpose of directing light rays by refraction to form an image.

(7) Overexpose is to permit too much exposure of a photographic copy. This may be caused by too brilliant light, too large an aperture or too much exposure time.

(8) Overlap is a defect in which one image or document partially covers and obscures another. In planetary cameras, this is caused by improper pull-down setting, causing the images to overlap. In rotary cameras, overlap is caused by improper setting of the document stop or improper clutch adjustment.

(9) Processing is the chemical or physical treatment of exposed photographic material to make the latent image visible. A series of steps consisting of developing, fixing, washing and drying.

(10) Processor is any machine which performs the various operations necessary to process photographic material.

History: 1954 ACS 47, p. 7, Eff. Aug. 14, 1966.

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R 18.104 Definitions; R to T.

Rule 4. (1) Reader is a projection device for viewing an enlarged microimage with the unaided eye.

(2) Reduction is a measure of the number of times a given linear dimension of an object is reduced when photographed, expressed as 16X, 24X, etc.

(3) Reduction ratio is the ratio of the linear measurement of a document to the linear measurement of the image of the same document expressed as 16:1, 24:1, etc.

(4) Residual thiosulfate (residual hypo) is ammonium or sodium thiosulfate (hypo) remaining on film or paper after washing. Since residual hypo has a deleterious effect and reduces permanence, careful control shall be maintained in processing to insure that permissible limits are not exceeded.

(5) Resolution is the ability to render visible fine detail of an object, a measure of sharpness of an image, expressed as the number of lines per millimeter, discernible in an image. Resolution in processed microfilm is a function of the film emulsion, exposure, camera lens, adjustment, camera vibration and film processing. Resolution is measured by examining a microfilmed resolution test chart under a microscope to determine the smallest pattern in which lines can be distinguished both horizontally and vertically.

(6) Safety film is a comparatively noninflammable film support (base) composed mainly of cellulose esters of acetic, propionic or butyric acids and which meets the ASA specifications for safety film. See ASA PH 1.28.

(7) Scratch is a linear abrasion which is considered a defect in film. Scratches in the base generally appear as black lines when observed in a reader, but they have a clear appearance, except for dirt accumulation, when observed with the unaided eye or with a viewer. Scratches in the emulsion may appear light when viewed on a reader, but may appear dark or clear when viewed with the unaided eye. Dark lines in the emulsion are caused by scratches occurring prior to developing, while clear lines are generally caused by scratches occurring after development.

(8) Splice is a joint made by cementing or welding (heat splice) 2 pieces of film or paper together so they will function as a single piece when passing through a camera, processing machine, projector or other apparatus. Cemented splices are called lap splices since 1 piece overlaps the other. Most welds are called butt splices since the 2 pieces are butted together without any overlap. Some butt splices also use tape.

(9) Target is a document or chart containing identification information, coding and test charts.

History: 1954 ACS 47, p. 7, Eff. Aug. 14, 1966.

R 18.105 Preparation of documents.

Rule 5. Before microfilming records the files should be complete and in proper order. If the records are in bound form, the bindings should be cut to eliminate the shadow caused by the middle crease in the book. If it is not possible to cut the binding then a book cradle should be used to keep the shadowing and distortion to a minimum.

History: 1954 ACS 47, p. 8, Eff. Aug. 14, 1966.

R 18.106 Cameras.

Rule 6. (1) A planetary camera shall be equipped with a lens capable of producing a minimum *resolution of 100 lines per millimeter*. A voltage regulator

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and lightmeter shall also be available to insure proper photography of various colored documents.

(2) A rotary camera shall be capable of producing a minimum resolution of 80 lines per millimeter. A rotary camera shall also be equipped with a voltage regulator to enable proper exposure of various documents.

History: 1954 ACS 47, p. 8, Eff. Aug. 4, 1966.

R 18.107 Microfilm.

Rule 7. (1) Raw microfilm shall meet with American standards association specifications PH 1.28, 1957 "Photographic Films for Permanent Records," or the latest revision. Film stock shall have the capacity to produce a minimum resolution of 125 lines per millimeter. Film stock shall be non-perforated, panchromatic and safety type microfilm.

(2) Microfilm shall have a density ranging from 0.9 to 1.2, except where the original document is faded or contains light pencil notes. A density of 0.9 to 1.2 may tend to "burn out" or overexpose the microfilm image. To prevent this, the density shall be decreased in the microrecording process to retain the image on microfilm.

(3) The national bureau of standards' resolution chart shall be used in determining the resolution of the microfilm. The microfilmed charts shall be examined with no less than a 40 power lens to determine the resolution. Microfilm exposed on a planetary camera shall have a minimum resolution of 100 lines per mm. On planetary camera microfilming charts shall be placed on all 4 corners and in the center of the photographic field. Microfilm exposed on a rotary camera shall have a minimum resolution of 80 lines per millimeter.

History: 1954 ACS 47, p. 8, Eff. Aug. 14, 1966.

R 18.108 Reduction ratio.

Rule 8. (1) Generally, the minimum reduction ratio is determined by the size of the original document and the size of the microfilm to be used. The 35mm microfilm is 1.25 inches wide and the 16mm microfilm is 0.590 inch wide. The formula for determining the minimum reduction ratio is as follows:

$$\text{Reduction ratio (R)} = \frac{\text{Original Size of Document (O)}}{\text{Image Size (I)}}$$

The dimensions used are the width of the original document (O) and the width of the microfilm for the image size (I).

Example: A 24" wide document is to be microfilmed on 35mm microfilm (35mm microfilm is 1.25 inches wide). The calculations are as follows:

$$\text{Reduction ratio (R)} = \frac{24''\ (O)}{1.25''\ (I)} = 19.2 \text{ minimum reduction ratio}$$

(2) The most popular reductions used are 24X and 40X. Letter size (8½ x 11) or legal size (8½ x 13) records are generally microfilmed at 24 to 1. Checks or warrants are generally microfilmed at 40 to 1 to enable the microfilming of the front and back of the checks simultaneously.

(3) There are 2 major factors that determine the reduction ratio on planetary cameras: the size of the document and the equipment on which the microfilm is to be used. The most popular reduction ratios for planetary cameras are 16X and 24X. Newspapers, books, land records and taxation records are generally filmed at 16X. Engineering drawings, maps and specifications are generally filmed at 24X.

History: 1954 ACS 47, p. 9, Eff. Aug. 14, 1966.

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R 18.109 Image arrangement and splicing.

Rule 9. (1) The images on the film shall be arranged according to American standards association specification PH 5.3, 1958, "Specification for 16mm and 35mm Microfilms on Reel or in Strips," or the latest revision thereof.

(2) A splice made on roll microfilm shall be a butt splice or a tape splice. A cemented lap-splice shall not be used.

History: 1954 ACS 47, p. 9, Eff. Aug. 14, 1966.

R 18.110 Indexing.

Rule 10. Roll microfilm shall have the following identifying targets:

(a) A start target indicating start of the roll.

(b) A title target describing the records that are microfilmed on the roll. This target shall contain the name of the government unit responsible for the record, title of the record, roll number, reduction ratio, date microfilmed and the camera operator's name.

(c) Miscellaneous targets consisting of cards used to identify corrections, omissions, retakes and additions.

(d) An end target consisting of the last image on the film. It shall contain the word "END" and also state the first and last document on the roll of microfilm.

History: 1954 ACS 47, p. 9, Eff. Aug. 14, 1966.

R 18.111 Microfilm processing and inspection.

Rule 11. (1) Microfilm to be retained permanently shall be processed in accordance with the American standards association specification PH 4.8, 1958, "Thiosulfate Content of Processed Black and White Photographic Films and Plates," or the latest revision thereof.

(2) Microfilm shall be inspected for fogged, blurred, scratched or overlapped images. Improperly filmed records shall be refilmed and either spliced onto the roll of microfilm or indexed to another roll of microfilm. Documents microfilmed shall not be destroyed until the film has been inspected.

(3) Microfilm in storage should be inspected at least once a year for possible deterioration.

History: 1954 ACS 47, p. 9, Eff. Aug. 14, 1966.

R 18.112 Storage.

Rule 12. (1) Microfilm and microfilm reels shall be stored in accordance with the American standards association specification PH 5.4, 1957, "Storage of Microfilm," or the latest revision thereof.

(2) Microfilm shall be stored in cartons with a low acid content. A PH of 6.0 or better is required.

(3) The relative humidity shall be maintained between 40% and 50% and the temperature shall range from 60 degrees to 80 degrees.

(4) When microfilm is to be retained permanently a second or security copy shall be produced. The security roll shall be retained in a building other than the one where the original film will be retained.

History: 1954 ACS 47, p. 9, Eff. Aug. 14, 1966.

R 18.113 Microfilm readers.

Rule 13. Microfilm readers to be used for roll microfilm shall meet the specifications set forth in the American standards association specification PH 5.1, 1959, "Microfilm Reader for 16mm and 35mm Film on Reels," or the latest revision thereof.

History: 1954 ACS 47, p. 10, Eff. Aug. 14, 1966.

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PROPERTY MANAGEMENT DIVISION

CONDUCT ON STATE PROPERTY

(By authority conferred on the department of administration by section 1 of Act No. 80 of the Public Acts of 1905, sections 4 and 13 of Act No. 51 of the Public Acts of the First Extra Session of 1948, as amended, and section 102 of Act No. 380 of the Public Acts of 1965, being §§19.141, 18.4, 18.13, and 16.202 of the Michigan Compiled Laws)

R 18.201 Definitions.

Rule 1. (1) "Capitol security force" includes regular state police officers, state police civilian guards, and other civilian guards employed by the department.

(2) "Department" means the department of administration.

(3) "State buildings" and "state grounds" means buildings and lands dedicated and appropriated to the public use over which the department has jurisdiction or control, including buildings or parts of buildings and other real estate occupied by the state as lessee.

History: 1954 ACS 68, p. 5, Eff. June 15, 1971.

R 18.202 Access to buildings.

Rule 2. (1) State employees are not permitted in state buildings at any time other than their normal working hours unless appropriate authorization has been submitted to the building superintendent. Proper identification of employees may be demanded by any member of the capitol security force, and employees may be required to sign a registration sheet.

(2) Except the capitol building and other buildings which are posted otherwise, visiting hours for the public in state buildings are from 8:00 a.m. to 5:00 p.m., daily, except Saturdays, Sundays and holidays, unless prior written consent has been obtained from the department. When determined by the department, visitors shall be required to sign a registration sheet.

(3) The department may lock entrances to any building at any time and may require that such entrances may be used from within only as a means of egress in case of emergency. A person shall not enter or attempt to enter a state building through an entrance closed under this rule.

History: 1954 ACS 68, p. 5, Eff. June 15, 1971.

R 18.203 Removal of property.

Rule 3. (1) A person shall not remove state property from state buildings or grounds unless the removal has been previously authorized in writing by the head of the principal department or in the case of the legislature by the speaker of the house or the president of the senate or their designees to which the property has been assigned, or by a person designated by such department head to give such authorization.

(2) Capitol security force guards may inspect brief cases, packages or other items being transported into or out of state buildings, grounds or parking facilities.

History: 1954 ACS 68, p. 6, Eff. June 15, 1971.

R 18.204 Obstructions, solicitations, and sales.

Rule 4. (1) A person shall not occupy a corridor, sidewalk, areaway, driveway or room in a state building or on state grounds in such manner as to hamper or obstruct the proper use or movement of personnel or vehicles or the proper conduct of state government.

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(2) A person is not permitted in state buildings or on state grounds for the purpose of solicitation of funds or the sale of any article, except that the department may authorize such conduct, confined to the entrances and lobby areas of state buildings, by charitable organizations.

History: 1954 ACS 68, p. 6, Eff. June 15, 1971.

R 18.205 Animals, vehicles, and camping.

Rule 5. (1) Except as may be required in the course of state business, animals are not permitted in state buildings. The owner or person having an animal under his control shall be responsible. Guide dogs used by the blind are permitted in state buildings.

(2) A vehicle is not permitted on the plaza level of the state government complex without prior approval by the department.

(3) A person shall not erect a tent, or unless authorized in writing by the state administrative board any other temporary structure, on state grounds. A person shall not camp on state grounds.

History: 1954 ACS 68, p. 6, Eff. June 15, 1971.

R 18.206 Enforcement.

Rule 6. (1) A person openly and wilfully refusing to conform to these rules, in addition to criminal penalties provided by law, is subject to immediate removal from a state building or state grounds, or both, by the capitol security force, the building superintendent, or any other person designated by the superintendent.

(2) Nothing contained in these rules shall be construed as limiting prosecution under an existing or future penal law.

History: 1954 ACS 68, p. 6, Eff. June 15, 1971.

BUILDING DIVISION

PUBLIC BUILDING ACCOMMODATIONS FOR PHYSICALLY HANDICAPPED PERSONS

(By authority conferred on the state building division by section 4 of Act No. 1 of the Public Acts of 1966, as amended, being §125.1354 of the Michigan Compiled Laws)

R 18.301 Scope and purpose.

Rule 1. (1) These rules govern the new construction of, and major remodeling and additions to, public buildings and buildings used by the public.

(2) These rules are intended to make such buildings accessible to and functional for any physically handicapped person employed, visiting, or on the building premises for any reason.

History: 1954 ACS 70, p. 5, Eff. Mar. 16, 1972.

R 18.302 Definitions.

Rule 2. (1) The terms defined in Act No. 1 of the Public Acts of 1966, as amended, being §§125.1351 to 125.1356 of the Michigan Compiled Laws, which act is implemented by these rules, are applicable to these rules.

(2) "Appropriate number" means the number of a specific item necessary to serve the needs of the anticipated number of physically handicapped persons who will use the building.

(3) "Building division" means the building division of the department of administration.

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(4) "Contracting officer" means the responsible administrative officer representing the unit of government or private agency that contracts for the construction of a building.

(5) "Department of education" means the school management services division of the bureau of administrative services of the department of education.

(6) "Ramp" means a smooth, hard prepared, sloped surface joining 2 different levels.

(7) "Walk" means a smooth, hard prepared surface of concrete, bituminous concrete, brick, stabilized gravel, or other suitable material with the ground immediately adjacent thereto at the same level.

History: 1954 ACS 70, p. 5, Eff. Mar. 16, 1972.

R 18.303 Parking lots, building approaches, and entrances.

Rule 3. (1) A parking lot servicing an entrance described in subrule (2) shall have an appropriate number of parking spaces adjacent to a walkway and identified by signs as reserved for physically handicapped persons. Each reserved parking space shall be surfaced suitably for wheelchair travel and shall be not less than 12 feet wide, unless paralleling a walk. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined curb approach or a curb cut with a gradient of not more than 1 foot in 3 feet (33⅓%) and a width of not less than 4 feet shall be provided for wheelchair access.

(2) At least 1 primary entrance to the building conforming with the requirements of R 18.304(3) shall be accessible from the parking lot or the nearest street by way of a walk uninterrupted by steps or abrupt changes in level and having a width of not less than 5 feet and a gradient of not more than 1 foot in 20 feet (5%) or a ramp meeting the requirements of R 18.304(2).

History: 1954 ACS 70, p. 5, Eff. Mar. 16, 1972.

R 18.304 Stairs, ramps, doors, and multilevel floors.

Rule 4. (1) Outside or inside stairs shall have risers not more than 7½ inches and nosing with a radius of not less than ⅛ inch. Stairs shall have handrails 2 feet 8 inches above the stair nosing on both sides. The handrail on the wall side of main landings shall extend 1 foot 6 inches beyond the top and bottom step and the handrails at intermediate landings shall be continuous on both sides. Stairs and landings shall have surfaces that are not slippery.

(2) An outside or inside ramp shall have a gradient of not more than 1 foot in 12 feet (8⅓%) with a level platform 5 feet long at the top and bottom, at turns and at an interval of not more than 30 feet on long runs; and shall have a clear width (inside handrails) of not less than 3 feet. A ramp, including platforms, shall have handrails 2 feet 8 inches high on both sides with the handrail extended 1 foot beyond the top and bottom of the ramp on at least 1 side. Ramps, including platforms, shall have surfaces that are not slippery.

(3) A door shall have a clear width of not less than 2 feet 8 inches when open. In case of double doors without a mullion, 1 of the pair shall meet the 2 foot 8 inch width requirement. The floor shall be level for a distance of 5 feet from the door in the direction of the door swing and shall extend 1 foot to the side of the latch jamb of the door. A threshold shall have a minimum rise and shall have an incline to facilitate wheelchair travel.

(4) All areas on the same floor shall have a common level or be connected by a ramp meeting the requirements of subrule (2).

History: 1954 ACS 70, p. 5, Eff. Mar. 16, 1972.

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R 18.305 Sanitary facilities.

Rule 5. (1) At least 1 toilet room and units within such room shall be accessible to, and usable by, physically handicapped persons. A toilet room shall have a clear space, excluding door swing, of not less than 5 feet by 4 feet to permit a wheelchair to be turned around. The clear width between the face of a water closet stall and a wall shall be not less than 4 feet. A water closet stall shall be not less than 3 feet wide and 4 feet 8 inches deep and have an outswinging door, or an opening 2 feet 8 inches wide. Handrails shall be provided on both sides of a water closet (on partitions) that are not less than 3 feet 6 inches long and mounted 2 feet 9 inches (lower for children) above and parallel to the floor. A water closet shall have a narrow understructure that recedes sharply from the front (the trap shall not extend in front of, or be flush with, the lip of the bowl). A lavatory shall be wall mounted with the space under the unit open and unobstructed. A lavatory shall have a narrow apron with the bowl near the front to permit use by a person in a wheelchair. A wall-mounted urinal shall have the basin opening not more than 1 foot 7 inches above the floor and shall not be the type with extended shields. A shelf, disposal unit and the lower edge of a mirror shall be not more than 3 feet 4 inches above the floor. A towel dispenser (paper level) shall be not more than 4 feet above the floor.

(2) An appropriate number of drinking fountains or other water dispensing means shall be accessible to, and usable by physically handicapped persons. A wall-mounted or semirecessed (fully recessed not acceptable) drinking fountain or cooler shall have a spout and control at the front of the unit with the basin located not more than 3 feet above the floor. A floor model water cooler shall have a side-mounted fountain 2 feet 6 inches above the floor that is accessible to a person in a wheelchair.

History: 1954 ACS 70, p. 6, Eff. Mar. 16, 1972.

R 18.306 Telephones, elevators, and switches.

Rule 6. (1) An appropriate number of telephones shall be accessible to, and usable by, physically handicapped persons. Such telephones shall be located outside a conventional phone booth and have the dial and handset not more than 4 feet above the floor. An appropriate number of telephones shall be equipped to assist persons with a hearing disability and be so designated with instruction for use.

(2) At least 1 elevator shall be provided in a multistory building to serve the floor containing the entrance meeting the requirements of R 18.303(2) and all other floors accessible to the public. The elevator cab shall have a clear area of not less than 25 square feet. However, with the approval of the administrative authority, an elevator cab with a clear area of not less than 23 square feet and a clear length or width of not less than 3 feet 8 inches may be used in a building that is not more than 3 stories in height and which except for the requirements of this act would not normally have an elevator. An elevator door shall have a minimum clear width of 2 feet 8 inches when open. Braille plates (metal, plastic or other suitable material) shall be provided for floor selection and other controls, such as open door, stop car, and emergency signal, adjacent to standard floor and control buttons within the cab. The maximum height of floor and control buttons shall be 60 inches above the floor with banked button arrangement where necessary. Braille plates (metal, plastic or other suitable material) shall be provided for floor designation on each floor, 5 feet above the floor, on the fixed jamb at the open side of the elevator door.

(3) Light switches shall be located not more than 4 feet above the floor.

History: 1954 ACS 70, p. 6, Eff. Mar. 16, 1972.

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R 18.307 Overhead obstructions, corridors, room identification, and hazardous areas.

Rule 7. (1) Light fixtures, protruding signs, door closers and other similar hanging objects or signs and fixtures shall be not less than 6 feet 6 inches above the floor.

(2) Corridors shall be not less than 4 feet wide and the end of a corridor shall have an area of not less than 5 feet square to permit a wheelchair to be turned around.

(3) Room identification plates (metal, plastic or other suitable material) with raised letters or numbers, similar to a so-called "super sign," shall be affixed to the wall surface approximately 5 feet above the floor in a horizontal line, adjacent to the latch side of a door. Doors that lead to hazardous areas such as fire escapes, loading platforms, switch rooms and mechanical rooms shall be equipped with knobs, handles or push bars that have been knurled. The knurling shall cover the back half of a doorknob (not less than 1 inch wide) and the total surface of a handle or push bar.

History: 1954 ACS 70, p. 7, Eff. Mar. 16, 1972.

R 18.308 Special rooms.

Rule 8. A room with a sloped floor or fixed seats or both, such as an auditorium or lecture room, shall have accommodations for persons in wheelchairs. Such areas shall be accessible from a common level floor or by a ramp meeting the requirements of R 18.304(2). The wheelchair spaces shall not interfere with normal or required traffic flow.

History: 1954 ACS 70, p. 7, Eff. Mar. 16, 1972.

R 18.309 Administration and enforcement.

Rule 9. (1) The department of education will administer and enforce these rules for those instructional and supporting service buildings through the twelfth grade level that are administered by public school and intermediate school districts. The building division will administer and enforce these rules for all other buildings that are constructed with funds of the state or its political subdivisions. The building and inspection department or agency of the local administrative authority with the responsibility and duty of issuing building permits will administer and enforce these rules for those buildings used by the public that are constructed with private funds.

(2) An apparent conflict between the application of these rules to a building and other state laws pertaining to the design of public buildings shall be reported to the department of education or the building division for resolution. An apparent conflict between the application of these rules to a building and other local laws pertaining to the design of buildings used by the public shall be reported to the building and inspection department or agency of the local administrative authority with the responsibility and duty of issuing building permits for resolution.

(3) The contracting officer shall forward, or have forwarded by the architect or engineer, 1 set of completed plans and specifications (including those for site development) to the proper administering agency for review. Two weeks shall be allowed for their review. If all areas of the building and its approaches are not in conformance with these rules, the plans and specifications shall be accompanied by a statement signed by the contracting officer describing the conditions or situations that warrant the exceptions and requesting that the exceptions be

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approved. The exceptions will be approved only when it is clearly evident that equivalent facilities and protection are provided.

(4) A notice of approval of the plans and specifications as submitted or a letter requesting changes therein will be sent to the contracting officer. The notice of approval shall be secured by the contracting officer prior to the award of construction contracts.

(5) A change in plans or specifications affecting any part of the building covered by these rules subsequent to approval by the administering agency shall be resubmitted for approval before construction.

History: 1954 ACS 70, p. 7, Eff. Mar. 16, 1972.

R 18.319 Rescission.

Rule 19. The rules entitled "Public Building Accommodations for the Physically Handicapped," being R 10.501 to R 10.509 of the Michigan Administrative Code and appearing on pages 4071 to 4073 of the 1967 Annual Supplement to the Code and page 5 of Supplement No. 66 to the Code, are rescinded.

History: 1954 ACS 70, p. 7, Eff. Mar. 16, 1972.

PURCHASING DIVISION

STATE PRINTING — PREVAILING WAGE RATES

(By authority conferred on the department of management and budget by section 33 of Act No. 306 of the Public Acts of 1969, as amended, being §24.233 of the Michigan Compiled Laws)

R 24.61 Definitions.

Rule 1. (1) "Act" means Act No. 153 of the Public Acts of 1937, as amended, being §24.61 et seq. of the Michigan Compiled Laws.

(2) "Conditions prevalent" means the cost of providing benefits to employees pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the employees affected, including plans or programs for medical or hospital care, pensions on retirement or death, compensation for injuries or illness or resulting from occupational activity, or insurance to provide any of the foregoing for supplemental unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, the costs of other approved paid absences for defraying costs of apprenticeship or other similar programs.

(3) "Employees" means all individuals who are engaged in any operation preparatory or necessary to or in the performance of a contract awarded by the state.

(4) "Locality" means the geographic determination as delineated on the map attached hereto as appendix A.

(5) "Prevailing wage rate and conditions prevalent" means the market rate, which is generally current; the mode received by employees in the locality evidenced by all information available to the department of management and budget at the time the determination is to be made.

(6) "Responsible bidder" means:

(a) A company having use of the allied printing trades council label.

(b) A company which pays its employees in accordance with a collective bargaining agreement with an organization which is in no way influenced or controlled by the management.

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(c) A company filing with the secretary of state a sworn statement to the effect that its employees are receiving the prevailing wage rate and are working under conditions prevalent in the locality in which the work will be produced.

(7) "Wages" means:

(a) The basic hourly rate of pay and adjustments thereto.

(b) The conditions for receiving, and amount of, premium pay.

History: 1954 ACS 88, p. 12, Eff. Aug. 4, 1976.

APPENDIX A



History: 1954 ACS 88, p. 15, Eff. Aug. 4, 1976.

R 24.62 Implementation.

Rule 2. These rules shall be implemented in a particular case only if a challenge to a bidder's status as a responsible bidder is received by the department of management and budget not later than 10 working days after the opening of bids.

History: 1954 ACS 88, p. 12, Eff. Aug. 4, 1976.

R 24.63 Prevailing wage rate and conditions prevalent.

Rule 3. In determining the prevailing wage rate and conditions prevalent, the department of management and budget shall review current information submitted or available to it but shall not be required to look beyond that information, except in the case of a contested bid. In that case, the challenged bidding firm may be required to furnish additional wage information.

History: 1954 ACS 88, p. 12, Eff. Aug. 4, 1976.

R 24.64 Obtaining and compiling relevant information.

Rule 4. (1) Whenever necessary and for the purpose of making prevailing wage rate and conditions prevalent determinations, the department of manage-

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ment and budget shall endeavor to obtain and compile information regarding wages and conditions prevalent.

(2) The department of management and budget shall encourage the voluntary submission of data by printing firms, trade associations, labor organizations, public officials, and other interested parties, reflecting wages and conditions prevalent.

(3) The following types of information shall be considered in making determinations of prevailing wage rates and conditions prevalent:

(a) Signed collective bargaining agreements.

(b) Information furnished by federal and state agencies.

(c) Other information pertinent to the determination of prevailing wage rates and conditions prevalent.

(4) The department of management and budget may supplement this information.

History: 1954 ACS 88, p. 13, Eff. Aug. 4, 1976.

R 24.65 Determination of responsible bidders.

Rule 5. (1) The responsibility of determining whether or not a bidder is a responsible bidder under the act rests in the first instance with the purchasing division of the department of management and budget.

(2) In the event of a challenge, the challenged bidder may withdraw its bid within 3 working days after notification of the challenge. If the challenged bidder does not withdraw, he shall furnish such additional information as the purchasing division requests with respect to wages and conditions prevalent.

(3) The responsible bidder determination of the purchasing division shall be final unless 1 of the parties requests a hearing.

History: 1954 ACS 88, p. 13, Eff. Aug. 4, 1976.

R 24.66 Challenges.

Rule 6. (1) The grounds upon which a bidder may be challenged are:

(a) That a bidder is not authorized to use the allied printing trades council label.

(b) That the collective bargaining agreement of a bidder is with a labor organization influenced or controlled by management.

(c) That the employees of a bidder who has filed a sworn affidavit with the secretary of state are not receiving the prevailing wage rate and working under conditions prevalent in the locality in which the work will be produced.

(2) A challenge shall be filed at the office of the purchasing division with the director of the division and shall be accompanied by an affidavit of service on the challenged bidder by certified mail, return receipt requested. The challenger shall make clear, specific, and detailed factual statements to support the grounds alleged and verify the same.

(3) Within 7 days after service of the challenge upon him, the challenged bidder shall serve his written verified answer upon the director of the purchasing division by certified mail, return receipt requested.

(4) Upon expiration of the time provided for an answer, the director of the purchasing division may direct an inquiry as to the validity of the challenge. The information gathered and results of the inquiry are confidential unless a public hearing is requested.

(5) If a challenge is not resolved to the satisfaction of any challenger or any challenged bidder, a public hearing, if requested by either party, shall be held.

History: 1954 ACS 88, p. 13, Eff. Aug. 4, 1976.

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R 24.67 Notice of public hearing.

Rule 7. Not less than 7 working days before the date of a public hearing, the director of the purchasing division shall notify, by certified mail, the challenger, the challenged bidder, and any other persons he names. The notice shall state the time, place, and date of the hearing, and shall set forth:

(a) The nature of the conduct alleged which is not in compliance with the act.

(b) The name and address of the challenger.

(c) A statement that the hearing will be public, that the party may be represented by counsel, that the party may present witnesses, that all witnesses may be called and subjected to cross-examination, and that the hearing officer may request the attendance of witnesses and the production of evidence, which, in the judgment of the director of the purchasing division, will aid in the conduct of the investigation.

History: 1954 ACS 88, p. 13, Eff. Aug. 4, 1976.

R 24.68 Hearings.

Rule 8. (1) Hearings shall be held before a hearing officer designated by the director of the purchasing division. The hearing officer and his agents or employees shall not have direct or indirect ex parte communication with any person in connection with the issues involved in a hearing.

(2) The hearing officer shall regulate the conduct of the hearing, administer oaths, request the attendance and testimony of witnesses and production of books, papers, and other documentary evidence, fix the time and form for the submission of evidence or argument, and adjourn a hearing for good cause to such time, date, and place as he deems appropriate.

(3) The rules of evidence applicable in the courts of the state need not be applied strictly in a hearing.

(4) At the conclusion of the hearing, the hearing officer may request additional evidence or written arguments concerning the subject matter to be submitted within such time and form as he directs. The additional evidence or argument shall be disclosed to all interested parties.

(5) The party requesting a hearing shall have the burden of proving a challenge. The party requesting the hearing shall have the right to be present, to be represented by counsel, to testify, to produce and examine witnesses, to cross-examine adverse witnesses, and to introduce such other evidence as may be material and relevant to the issues.

(6) Proceedings shall be recorded, but need not be transcribed unless requested by the purchasing division or a party. The purchasing division shall determine the amount and source of payment for the transcript. The purchasing division shall prepare an official record of the hearing, which shall include the notice of hearing and all documents considered by the hearing officer, and may include a transcript of the evidence presented at the hearing.

History: 1954 ACS 88, p. 14, Eff. Aug. 4, 1976.

R 24.69 Challenge opinions.

Rule 9. If the hearing officer finds from a preponderance of the evidence that a challenged bidder has not complied with the act or that the moving party has failed to demonstrate that its position is meritorious, he shall issue a written decision specifying recommended action. The hearing officer shall transmit a copy of the decision to the person whose conduct is involved, to the person who challenged the proposed award, and to other persons who have filed a written request for a copy of the opinion.

History: 1954 ACS 88, p. 14, Eff. Aug. 4, 1976.

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DEPARTMENT OF STATE POLICE

INSTALLATION AND CONSTRUCTION OF TUBULAR AND SPIRAL SLIDE FIRE ESCAPES

(By authority of sections 3 and 20 of Act No. 207 of the Public Acts of 1941, being §§29.3 and 29.20 of the Michigan Compiled Laws)

GENERAL PROVISIONS

R 28.51 Applicability; modifications; installation.

Rule 1. (1) These rules shall apply to any school, hospital, public buildings, private building, or person who erects a tubular or spiral fire escape. No person shall install a tubular or spiral fire escape unless in conformity with these rules.

(2) Any person, or his duly authorized agent, confronted with practical difficulties in the carrying out of the strict letter of these rules, may apply to the commissioner for the modification thereof. The decision of the commissioner, including the particulars of any such application, shall be entered upon the records of the Michigan state police, and a signed copy thereof shall be furnished the applicant.

(3) All tubular sliding type fire escapes shall be installed by the manufacturer. Defective workmanship or faulty installation, upon the request of the commissioner, shall be corrected.

History: 1944 AC, p. 1396; 1954 AC, p. 301.

R 28.52 Definitions.

Rule 2. For the purpose of these rules the following definitions shall be applied:

(a) The word "department" shall mean the Michigan state police.

(b) The word "commissioner" shall mean the commissioner of the Michigan state police, or his duly authorized representative.

(c) The word "manufacturer" shall mean any manufacturer of tubular or spiral fire escapes.

(d) The word "person" shall mean any natural person or persons, firm, partnership, company, corporation or association.

History: 1944 AC, p. 1396; 1954 AC, p. 301.

R 28.53 Exit doors and fire escapes.

Rule 3. Every exit door or fire escape shall swing outward and shall be so hung that, when open, it will not block any part of the required width of said exit or fire escape opening; and shall be provided with an anti-panic lock which causes the door to open outward when pressure is applied to the horizontal bar. When double exit doors are used, the horizontal release bars of the anti-panic lock shall act as 1 unit.

History: 1944 AC, p.1397; 1954 AC, p. 301.

R 28.54 Location of fire escapes.

Rule 4. All fire escapes shall be as far removed from interior buildings exits as practical and shall be so placed as best to assure the safety of persons using the fire escapes.

History: 1944 AC, p. 1397; 1954 AC, p. 301.

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R 28.55 Plans and specifications.

Rule 5. The owner or his duly appointed representative shall submit plans and specifications as to location and design to the commissioner for his approval. All plans for fire escapes shall include floor plans of all floors of the building above the first floor; these floor plans to show hallways, stairways, rooms and proposed locations of the fire escapes. The elevations of the fire escapes shall be shown on the elevation plan of the building. The elevation plan of the building shall include all windows and doors, and all wall openings affected shall show a marking upon the drawings indicating the required fire-resistive construction. They shall also show the dimensions of the fire escape and the sizes of all material.

History: 1944 AC, p. 1397; 1954 AC, p. 301.

R 28.56 Spiral and tubular fire escapes; type; listing.

Rule 6. All spiral and tubular fire escapes must be the approved type and listed as standard.

History: 1944 AC, p. 1397; 1954 AC, p. 302.

R 28.57 Spiral and tubular fire escapes; installation.

Rule 7. All installation of tubular or spiral fire escapes, including cutting of wall openings, and installing doors with approved panic bolts, shall be made by the manufacturer who will be held responsible for any deficiencies or failures. Defective workmanship or faulty construction or installation, upon the request of the commissioner, shall be corrected.

History: 1944 AC, p. 1397; 1954 AC, p. 302.

R 28.58 Completion of installation; notice; inspection.

Rule 8. Manufacturers shall notify the commissioner upon completion of fire escape installations, after which an inspection shall be made for final approval.

History: 1944 AC, p. 1397; 1954 AC, p. 302.

R 28.59 Construction of escapes.

Rule 9. Escapes shall be rigidly constructed with brackets, hangers, braces, horizontal braces, and sway braces provided wherever necessary. Tubular sliding type fire escapes shall be constructed of not lighter than no. 20 U.S. gauge copperbearing galvanized steel and shall have a slope (depending on height of floors to be served) of not less than 25 degrees nor more than 35 degrees for schools and institutions, and for hospitals the slope shall be not less than 38 degrees nor more than 42 degrees. Slope of fire escapes shall be such as to assure a safe landing speed at grade, depending on class of occupancy of building.

History: 1944 AC, p. 1397; 1954 AC, p. 302.

R 28.60 Fire escape entrances.

Rule 10. Entrance to fire escape shall be at floor level and shall be not less than 30″ wide and 42″ high for schools and institutions and not less than 40″ wide and 42″ high for hospitals. Securely built into the wall, said entrance shall be closed with double doors, equipped with anti-panic bar and locks, and operated with push bars. Doors shall be weather-stripped. Doors shall swing into entrance of escape. Sections shall be not less than 30″ in diameter and not more than 38″ long and have a 1¼″ x ⅛″ angle iron band riveted to each end. All rivets shall be tinned and have countersunk heads and those exposed to the sliding surface shall be soldered over and then scraped perfectly smooth. Sheet of upper section shall lap

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over sheet of lower section so occupants slide with the lap. Sections shall be joined together by bolting outside faces of the angle iron bands together with 5/16" x 1" machine bolts, spaced not more than 8" apart. A steel washer shall be placed over the head of each bolt. A channel iron band, not less than 5/8" x 1/16" shall be placed over the joint formed by the upright faces of the angle iron bands to make them watertight. All joints shall be so constructed that they are watertight. No putty, cement or other substance shall be resorted to in order to make the joints waterproof. When more than 1 entrance is provided for schools and institutions, the diameter of the main tube shall be increased to 36" at the first entrance below the upper entrance of the fire escape and continue at the 36" diameter to the lower end. Ventilator shall be provided in each entrance.

History: 1944 AC, p. 1397; 1954 AC, p. 302.

R 28.61 Fire escape supports.

Rule 11. Fire escapes shall be amply supported by brackets attached to the wall of the building or to standpipe or iron structural supports (embedded in concrete) from the ground. One set of brackets shall be provided for every 4 sections, or fraction thereof, exclusive of entrance, elbow and easement. Hanger brace shall be secured to the wall of the building with a through bolt not less than 3/4" in diameter with a washer 4" x 4" embedded in the plastering on the inside of the wall. A horizontal swing bar constructed of 3/4" pipe shall be placed at the entrance to the tubular escape and be securely fastened to the passageway housing.

History: 1944 AC, p. 1397; 1954 AC, p. 302.

R 28.62 Elbows.

Rule 12. Elbows as required at entrance or other points shall be the same diameter as the main tube and of proper radius or sweep to accommodate conditions. Elbow joints shall be double seamed. No welding of galvanized material shall be permitted.

History: 1944 AC, p. 1397; 1954 AC, p. 303.

R 28.63 Easement.

Rule 13. Easement or lower end of escape shall be round or oval shape and shall rest on metal supports embedded in concrete holding the easement not less than 14" nor more than 18" above grade level, depending on occupancy.

History: 1944 AC, p. 1397; 1954 AC, p. 303.

R 28.64 Tubes.

Rule 14. Where tubes are to be placed for the purpose of escape from hospitals, the same shall be constructed as set forth in the foregoing specifications except that the main tube shall be not less than 36" in diameter and the exit end of the escape shall be provided with an extended easement of approximately 6' resting on metal supports embedded in concrete, holding easement not more than 4" above grade level.

History: 1944 AC, p. 1398; 1954 AC, p. 303.

R 28.65 Spiral sliding-type fire escapes; cylinder; center core.

Rule 15. (1) Spiral sliding-type fire escapes shall be constructed entirely of steel and be not less than 5' in diameter for schools and institutions, and not less than 7' in diameter for hospitals.

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(2) The cylinder shall be of no. 12 U.S. gauge sheet steel for the lower 36", the next upper section of no. 14 gauge and the remainder of no. 16 gauge.

(3) The center core shall be composed of a 3" I.D. standard black pipe enclosed in a thimble constructed of no. 18 gauge, galvanized copperbearing steel, or a 4½" O.D. pipe, tapped and threaded for attaching down flanges or wings with cap screws.

History: 1944 AC, p. 1398; 1954 AC, p. 303.

R 28.66 Spiral slide.

Rule 16. Spiral slide shall be constructed of no. 16 gauge, galvanized copperbearing sheet steel and shall be formed of tapered segments. Tapered segments shall overlap in direction of travel and be securely riveted together with tinned rivets or down flanged and bolted. Such rivets shall be recessed and exposed edges of sheet ground smooth. Inner edge of segments shall be securely riveted to the thimble of the center core and the outer edge to the cylinder, or down flanged and bolted. The slide shall be banked not less than 5" from a point not less than 12" from the outer housing, and of such degree of pitch as to insure proper descent of persons sliding through the escape.

History: 1944 AC, p. 1398; 1954 AC, p. 303.

R 28.67 Sliding-type fire escape; roof.

Rule 17. Roof of the spiral sliding-type fire escape shall be constructed of not lighter than no. 16 gauge steel, be conical in shape and be provided with a ventilator.

History: 1944 AC, p. 1398; 1954 AC, p. 303.

R 28.68 Access to spiral chute.

Rule 18. Access to a spiral chute at any point shall be through a fully enclosed platform passage between the entrance doorway and the tubular shell, or the sliding surface of the spiral shall be extended to the thresholds of the entrance doorway.

History: 1944 AC, p. 1398; 1954 AC, p. 303.

R 28.69 Enclosed platform passage.

Rule 19. The enclosed platform passage shall be not less than 36" wide and 7'0" high for schools and institutions, and not less than 48" wide and 7'0" high for hospitals. The floor of the platform shall be on a level with the interior floor and shall be constructed of not less than ¼" firm tread steel plate and be supported by not less than 2" x 2" x ⅜" angle iron frame or equivalent. The angle iron frame shall be securely fastened to the wall of the building and the shell of the spiral escape. The sides and roof of the passageway shall be constructed of not lighter than no. 20 U.S. standard gauge copperbearing galvanized steel. The center of the enclosed passageway shall be in line with the center of the sliding surface of the spiral slide either to the right or left of the center pole. A horizontal swing bar constructed of ¾" pipe shall be placed at the entrance to the spiral slide and be securely fastened to the passageway housing.

History: 1944 AC, p. 1398; 1954 AC, p. 303.

R 28.70 Extended sliding surface; escape entrance.

Rule 20. The extension to the sliding surface of the spiral escape to the threshold of the entrance door for schools and institutions shall be either round (not less than 29" diameter) or rectangular (not less than 30" wide by 42" high) in

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shape and shall have a slope of not greater than 26 degrees with the horizontal, constructed of not less than no. 20 U.S. gauge copperbearing galvanized steel. The same shall apply to hospitals except that the extended sliding surface, if round, shall not be less than 36″ in diameter and, if rectangular, not less than 40″ wide by 42″ high. The extended sliding surface shall be securely riveted to the shell of the escape at 1 end and built into the door frame at the other end. Entrance to escape shall be at floor level and shall be not less than 30″ wide and 42″ high for schools and institutions, and not less than 40″ wide and 42″ high for hospitals. Securely built into the wall, said entrance shall be closed with double doors equipped with anti-panic bar and locks, and operated with push bars. Doors shall swing into entrance of escape. Doors shall be weather-stripped. A horizontal swing bar ¾″ pipe shall be placed at the entrance doorway and be securely fastened to the door frame.

History: 1944 AC, p. 1398; 1954 AC, p. 304.

R 28.71 Sliding surface for hospitals.

Rule 21. A straight section or ramp not less than 7′ long by 45″ wide shall be provided at the extreme end of the spiral sliding surface for hospitals.

History: 1944 AC, p. 1398; 1954 AC, p. 304.

R 28.72 Automatic exit doors.

Rule 22. Automatic exit doors at the lower end of all slide escapes shall be provided with exterior locking device which will permit entrance from the outside with key but which will in no way interfere with operation of doors from the inside.

History: 1944 AC, p. 1398; 1954 AC, p. 304.

R 28.73 Spiral fire escape foundation.

Rule 23. Spiral fire escapes shall rest on a concrete foundation of sufficient strength and depth as to carry live and dead loads without settlement.

History: 1944 AC, p. 1398; 1954 AC, p. 304.

LICENSING THE SELLING, PURCHASING, POSSESSING, AND CARRYING OF CERTAIN FIREARMS

(By authority of sections 2 and 6 of Act No. 372 of the Public Acts of 1927, as amended, being §§28.422 and 28.426 of the Michigan Compiled Laws)

R 28.91 Submitting letter in lieu of fingerprints to commissioner.

Rule 1. In cases where the chief of police, or sheriff, is satisfied to his own knowledge that the applicant for renewal has not been convicted of, or involved in, any criminal act, it is not necessary to submit fingerprints, provided that a letter in duplicate is sent to the commissioner of state police setting forth the fact that to his knowledge the applicant has not been involved in any criminal act or conviction since fingerprints submitted to the state bureau at East Lansing.

History: 1944 AC, p. 1399; 1954 AC, p. 304.

R 28.92 Responsibility for applicant's endorsement.

Rule 2. In all cases where this letter is submitted in lieu of fingerprints the full responsibility for the endorsement of the applicant, as to not having been involved in a criminal act or conviction, is upon the chief of police or sheriff submitting above-mentioned letter.

History: 1944 AC, p. 1399; 1954 AC, p. 304.

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PLACES OF PUBLIC ASSEMBLAGE

(By authority of sections 3 and 5 of Act No. 207 of the Public Acts of 1941, being §§29.3 and 29.5 of the Michigan Compiled Laws)

GENERAL PROVISIONS

R 28.101 Scope of rules.

Rule 1. (1) These rules shall apply to the construction or remodeling of buildings for public assembly; to school auditoriums and any other room in a school where an assemblage of people may gather; and to new and existing buildings where an assemblage of more than 50 people may congregate. (Section 9 shall apply regardless of the number of persons that may congregate.)

(2) Any person, or his duly authorized agent, confronted with practical difficulties in carrying out of the strict letter of these rules, may apply to the commissioner for modification thereof. Only such modifications as will not constitute a distinct hazard to life or property will be considered. The decision of the commissioner, including the particulars of any such application, shall be entered upon the records of the Michigan state police and a signed copy thereof shall be furnished the applicant.

History: 1944 AC, p. 1399; 1954 AC, p. 305.

R 28.102 Definitions.

Rule 2. For the purposes of these rules the following definitions shall be applied:

(a) The term "place of assembly" as used in these rules shall mean a room or space in which provision is made for the assembly of persons for religious, recreational, educational, political, social or amusement purposes, or for the consumption of food, or drink, or for any other purpose, whether such gatherings be of public, restricted or private nature. Such room or space shall include any occupied connecting rooms or space in the same story, or stories above, or below, where entrance is common to the room, or space occupied. Private homes, used as dwellings, are exempt from these rules.

(b) The term "means of egress" shall mean the exit doorway or doorways, or such doorways together with connecting hallways, passageways, or stairways, or other spaces through which persons may pass safely from the place of assembly to an open, uncovered, unobstructed yard, court or space leading to a public street or alley. Means of egress from any room may lead through other rooms of the same tenancy provided they are properly marked and lighted.

(c) The term "exit door" shall mean the doorway or other opening through which persons may pass in using a means of egress.

(d) The term "panic hardware" shall mean a type of locking device which will automatically release the door or doors upon which it is placed, when pushed against from the inside without the use of a key or the unfastening or loosening of any bolts, latches, catches, bars or hasps, or any similar fastening device requiring a special knowledge to operate.

(e) The word "department" shall mean the Michigan state police.

(f) The word "commissioner" shall mean the commissioner of the Michigan state police or his duly authorized representative.

(g) The word "inspector" shall mean a state police officer or fire chief, or any member of the fire department assigned to inspect premises, equipment and conditions relative to public assembly.

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(h) The term "fire chief" shall mean any duly confirmed fire chief of any political subdivision of this state. Said fire chief may designate any member of the fire department to make inspection.

(i) The term "approved" shall mean acceptable to the commissioner or local fire chief.

History: 1944 AC, p. 1399; 1954 AC, p. 305.

R 28.103 Capacity of assembly.

Rule 3. (1) Basis of determining capacity: The basis of capacity requirements shall be 1 person to each 15 square feet of gross area occupied, not including store rooms, unless otherwise stipulated herein. In computing the seating of public assembly in which the table is not used, an allowance of 6 square feet of floor area shall be made for each person, and all space between the walls or partitions of such building, tent, room, hall or space shall be included in this computation, provided, however, that in computing the seating capacity of church pews or benches and other places of public assembly, an allowance of 20 inches of the pew or bench length shall be considered as equivalent to one individual seat.

(2) Placard indicating capacity: Necessary placards indicating the capacity of any place of assembly in number of occupants, other than employees shall be displayed in a conspicuous place in the room or rooms. An establishment in excess of this capacity will be in violation of these rules. The placards are to read as follows: THE TOTAL CAPACITY IS LIMITED TO ____ PERSONS. (No additional wording shall be permitted on this placard.)

History: 1944 AC, p. 1400; 1954 AC, p. 306.

R 28.104 Means of egress.

Rule 4. (1) Minimum: Every place of assembly shall be provided with at least 2 separate and independent means of egress located as far apart as practical; and in no case less than 50% of the longest dimension of the room or space in which the public assembly is operated.

(2) Capacity table: All places of assembly shall be provided with means of egress in accordance with the following table showing the capacity of the place of assembly and the minimum required number and width of exits:

Capacity	Required
Under 100 persons	2 exits, each 2'6"
100 to 150 persons	2 exits, each 2'9"
150 to 200 persons	2 exits, each 3'
200 to 250 persons	2 exits, each 3'6"
250 to 300 persons	2 exits, each 4'
300 to 400 persons	2 exits, each 4'6"
400 to 500 persons	2 exits, each 5'
500 to 600 persons	3 exits, each 4'
600 to 750 persons	3 exits, each 4'6"

For capacity greater than 750 persons, the required width of exits shall be determined at the rate of 20 inches for each additional 100 persons or fraction thereof, and the exits shall be reasonably well distributed around or about the place of assembly.

(3) Where several narrow exits are provided in lieu of 1 wider exit, the combined width of the several narrow exits shall be 1 and ¼ times the required minimum width of 1 exit.

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(4) Where the floor or story, upon which such place of assembly is operated, is located above, or below, the level of the surrounding ground, or the adjacent streets or alleys, suitable stairways, or ramps, or fire escapes, shall be provided to give safe and easy access to the ground, or to the street, or alley. The location and arrangement of all such stairways, or ramps, or fire escapes shall be in accordance with and will conform to the requirements of the city building codes, or state specifications for fire escapes.

(5) All exit doors and doors leading to, or a part of, a means of egress shall swing in the direction of egress. Where screen doors, grates or grills are provided in addition to, or in place of, doors, these shall also swing in the direction of egress. Nothing in these rules shall be construed as prohibiting an exit door which swings both inward and outward.

(6) Adequate aisles, corridors, passageways and space shall be provided and maintained open and unobstructed at all times so as to give access to all exits and means of egress. There shall be no standing in the aisles at any time. For each room or space used with chairs alone, or with tables and chairs, the arrangement shall be such as will provide for ready access by aisles to each exit doorway. Aisles leading directly to exit doorways shall in no circumstances be less in width than the exit doorway, and said aisles shall not be obstructed by chairs or tables or other objects. Such cross aisles, or other aisles, deemed necessary by the commissioner, any of his assistants, the fire chief of the community in which the building is located, shall be provided.

(7) Printed or painted exit signs having letters not less than 6 inches in height shall be provided over all exit doors, means of egress and the courts thereto; except as hereinafter provided.

(8) All places of assembly where the area of the dance floor exceeds 400 square feet located below, or above the first floor; or where the capacity exceeds 300 persons, shall have electrically illuminated exit signs with letters not less than 3 inches in height and shall be wired and fused on a separate circuit.

(9) Movable seats are prohibited in balconies or galleries having floors with steps. Where exits are located at the sides of places of public assembly having movable seats, there shall be a cross aisle giving access to same.

(10) Aisles in place of public assembly having movable seats shall have in the aggregate a width of at least 20 inches for each 100 persons of the seating capacity, and for fractional parts of 100, a proportionate part of 20 inches shall be added, provided however, that no aisle shall be in any part less than 36 inches in width.

(11) Seats and aisles: In buildings containing halls or auditoriums for 200 or more persons, all seats may be permanently fixed to the floor. Movable seats of the standard or folding type may be used, provided, that not more than 7 seats on each side of aisle or 14 seats between any 2 aisles are provided. The seats are to be spaced not less than 26 inches from back to back. Where movable seats are used, such seats must be secured together in groups of not less than 3. Aisles are to be not less than 3 feet wide in clear at any point.

(12) No flammable liquids, or other materials that are dangerous to human life or present a fire hazard, shall be kept or stored in any place of assembly, or in any room located under any place of assembly, or under any means of egress therefrom, or in any room or space communicating by doors, windows, or other openings, with any place of assembly, or a means of egress therefrom.

History: 1944 AC, p. 1400; 1954 AC, p. 306.

R 28.105 Doors and exits.

Rule 5. (1) All doors required or provided for exit purposes, or designated as exits, shall be kept unlocked and available for instant opening in emergency at all

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times during which the place of assembly is open or in use. No such door shall be so fastened that it cannot be opened from the inside by the use of the ordinary doorknob or by pressure on the door on a panic release device. The use of hooks and eyes, bolts, bars and similar devices is expressly prohibited on doors provided for exit purposes, or designated as exits.

(2) All places of public assembly having a dance floor area greater than 400 square feet, or having a dance floor above, or below, the first story, with a capacity of over 300 persons, shall have panic hardware on exit doors and doors of egress as hereinbefore defined, except on front or main entrance door when such main entrance is through a single door. In all cases in which a doorway used for exit purposes has a pair of doors, either or both of which are equipped with hardware for locking or holding, such hardware actuating the top and bottom bolts on the standing leaf shall be of the panic hardware type.

History: 1944 AC, p. 1401; 1954 AC, p. 307.

R 28.106 Revolving doors.

Rule 6. (1) Revolving doors shall not be used in required means of egress in existing buildings occupied for public assembly except under 1 or more of the following conditions:

(a) Where the place of assembly is in a building of fireproof construction with no hangings, draperies, furnishings, or decorations of cloth or paper other than allowed frameproofed materials.

(b) Where the place of assembly and the remainder of the building are protected by an automatic sprinkler system.

(c) Where the place of assembly has a capacity of not over 200 persons and had no hangings, furnishings, draperies, or decorations of cloth or paper other than allowed flameproofed materials, and there is an exit door of the swinging type adjacent to each revolving door.

(2) In new structures to be used for public assembly, or in the event of change of occupancy of an existing structure so that the new occupancy is to be 1 of a public assembly, no revolving doors will be allowed in required means of egress except under the following conditions:

(a) Where there is an exit door or doors of swing type adjacent to and within at least 15 feet of each revolving door.

(b) All revolving doors and means of egress shall be of approved type which will collapse under pressure, and only the width of 1 leaf shall be considered in computing exit requirements.

(3) In all cases all revolving doors in a means of egress shall be of approved type which will collapse under pressure, and only the width of 1 leaf shall be considered in determining exit requirements. Employees shall be instructed in the method of collapsing revolving doors, and the doors shall be tested by collapsing at least once a month.

(4) Revolving doors shall be used in means of egress only at points of egress from the first story above grade.

History: 1944 AC, p. 1402; 1954 AC, p. 307.

R 28.107 Exits lighted.

Rule 7. All passageway outlets leading to streets or spaces connected therewith, including vestibules, lobbies, stairways, ramps, passageways, corridors, courts, fire escapes, and the outside of all exits, shall be well lighted whenever the premises are occupied by the public, and shall be so lighted until the public has entirely left the premises. Proper guards shall be installed to protect the outside lights.

History: 1944 AC, p. 1402; 1954 AC, p. 308.

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R 28.108 Use and placement of decorations; obstructing view of exit signs.

Rule 8. No architectural treatment, mirrors, false windows, doors or other decorations shall be so used as to give the appearance of door or exit where no door or exit exists; or so placed as to decrease the width or impair the use of the exit. Nothing shall be hung or placed in front of exit signs which will obstruct or prevent a clear view of the exit signs from all parts of the premises.

History: 1944 AC, p. 1402; 1954 AC, p. 308.

R 28.109 Prohibited decorations; combustible furnishings.

Rule 9. (1) It shall be unlawful to use in any building described herein, used or intended to be used for the purposes of assembly, amusement or instruction, or any building or portion of a building defined as a place of assembly, flimsy decorations of any type, such as paper, paper streamers, cloth, artificial plants, trees, flowers, vines, leaves, moss, shrubs, grass, cotton batten or any other material or a combination of such materials, for decorative purposes or for the covering of ceilings, walls, windows or doors, or for soundproofing, acoustical, insulating, artistic enhancement, or any other similar purpose, that will produce a quick or fast burning fire, regardless of whether it is flameproofed or not.

(2) Nothing in this section shall prohibit the use of cut flowers or of natural trees, plants, shrubs or grass for artistic enhancement or decorative purposes, provided such trees, plants, flowers, shrubs, or grass are in soil and are maintained in a healthy condition.

(3) The provisions of this rule shall not apply to table linen, chairs, tables or other portable incidental furniture.

(4) Nothing in this rule shall be construed to apply to merchandise for sale or displayed for sale.

(5) Combustible furnishings, such as drapes, shall be treated with a flameproof solution, unless said material is of all wool and at least 1/16 of an inch thick, then this treatment will not be necessary. Any other type of furnishings, which in the opinion of the commissioner or fire chief, may produce a quick or fast burning fire, shall be treated with a flameproof solution in accordance with the specifications of the commissioner. All stage scenery, drapes, drops, of any type shall be treated with flameproof solution in accordance with the specifications of the commissioner. The use of paper tablecloths is prohibited where smoking is permitted or where lighted candles are used. The use of imitation leather (or other material) consisting of or coated with a pyroxylin base is prohibited.

History: 1944 AC, p. 1402; 1954 AC, p. 308.

R 28.110 Fire appliances.

Rule 10. (1) The commissioner, or any of his assistants, or the local fire chief, shall survey, or cause to be surveyed, each place of assembly and shall designate suitable fire appliances in and near boiler rooms, kitchens, storage rooms and other occupied areas where such appliances are deemed necessary. Such fire appliances may consist of automatic fire alarm systems, automatic sprinkler, standpipe and hose or portable extinguishers. All fire appliances shall be kept in working condition, and all extinguishers and hose and similar appliances shall be visible and handy at all times.

(2) It shall be the duty of the owner or operator of each place of public assembly to provide and properly train sufficient regular employees in the use of fire appliances, so that such appliances can be quickly put into operation. It shall

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be the duty of the owner or operator of each place of public assembly to institute and maintain, under the direction of the commissioner or the fire chief, monthly fire drills so that each employee shall be trained to do a certain portion of the work of preventing or extinguishing fire and providing for the safety of human life. Drill work shall include inspections of the stage, vents, exit doors, other means of egress, and all fire devices or appliances.

History: 1944 AC, p. 1403; 1954 AC, p. 309.

R 28.111 Ashtrays and match receivers; metal receptacle.

Rule 11. Where smoking is permitted, there shall be provided on each table and at other convenient places suitable noncombustible ashtrays and match receivers. A self-closing metal receptacle (with an air space underneath) shall be provided for the emptying of ashtrays.

History: 1944 AC, p. 1403; 1954 AC, p. 309.

R 28.112 Presumption.

Rule 12. All persons recorded as having an interest in either the management or ownership of said business, or responsible for the place of assembly, shall be conclusively presumed to have known of and ordered all such changes and alterations. Should it appear from the statement required in obtaining a permit or license that such business is owned or managed either wholly or in part by a corporation, the officers thereof shall be conclusively presumed to have known of and ordered such changes or alterations.

History: 1944 AC, p. 1403; 1954 AC, p. 309.

STORAGE AND HANDLING OF EXPLOSIVES

(By authority of sections 3 and 5 of Act No. 207 of the Public Acts of 1941, being §§29.3 and 29.5 of the Michigan Compiled Laws)

GENERAL PROVISIONS

R 28.131 Scope of rules.

Rule 1. (1) These rules shall apply to dealers and others who store explosives and to the manufacture, use, possession, storage, transportation, sale, distribution or gift of explosives.

(2) Any person, or his duly authorized agent, confronted with practical difficulties in the carrying out of the strict letter of these rules, may apply to the commissioner for modification thereof. Only such modifications as will not constitute a distinct hazard to life or property will be considered. The decision of the commissioner, including the particulars of any such application, shall be entered upon the records of the Michigan state police, and a signed copy thereof shall be furnished the applicant.

History: 1944 AC, p. 1403; 1944 ACS 38, p. 38; 1954 AC, p. 309.

R 28.132 Definitions.

Rule 2. For the purposes of these rules the following definitions shall be applied:

(a) The word "department" shall mean the Michigan state police.

(b) The word "commissioner" shall mean the commissioner of the Michigan state police, or his duly authorized representative.

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(c) The word "highway" shall mean any public street or highway.

(d) The word "railroad" or "railway" shall mean any public steam, electric or other railroad of whatever motive power, but shall not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine quarry or plant.

(e) The word "manufacturer" shall mean any manufacturer of explosives or any person who otherwise produces any explosives for sale or distribution in the state, or who may ship explosives into or out of this state.

(f) The word "distributor" shall mean any person acting as a manufacturer's agent or jobber who deals in explosives and sells to retail dealers or to consumers.

(g) The word "dealer" shall mean any person, not a manufacturer, engaged in the business of buying and selling explosives.

(h) The word "magazine" shall mean a building or box specially designed, constructed and used only for the storage of explosives; magazines shall be of 4 classes: A, B, C, and D, as outlined in R 28.139.

(i) The word "barricade" shall mean natural features of the ground such as hills, timber of sufficient density that the surrounding exposures cannot be seen when the trees are bare of leaves or an efficient artificial barricade consisting of an artificial mound or properly revetted wall of earth of a minimum thickness of 3 feet.

(j) The word "person" shall mean any natural person or persons, firm, partnership, company, corporation, or association.

(k) The word "village" shall mean an incorporated village.

(l) The word "inspector" shall mean a state police officer assigned to inspect premises, equipment and conditions relative to the manufacture, storage, transportation, and use of explosives.

(m) The word "explosives" shall mean any and all of the following explosives: Gun powders, powders used for blasting, nitroglycerine, all forms of high explosives, blasting materials, fuses, detonators and other detonating agents, smokeless powders, any chemical compound of any mechanical mixture containing any oxidizing and combustible units or other ingredients in such proportion, quantities or packing that an ignition by fire, friction, concussion or detonation of any part of the compound or mixture may cause sudden generation of highly heated gases so that the resultant gaseous pressures are capable of producing destructive effects upon life, limb, or contiguous objects; but does not include gasoline, kerosene, naphtha, turpentine, benzine, butane, propane, colloided nitrocellulose in sheets or rods or grains not under ⅛ of an inch in diameter, wet nitrocellulose and wet nitrostarch containing 20% or more moisture or wet picric acid containing or being in 10% or more moisture. Manufactured articles, such as fixed ammunition for small arms, firecrackers, safety fuses, matches, et cetera, shall not be held to be explosives when the individual units contain explosives in such limited quantity of such nature in such packing that it is impossible to produce simultaneous or destructive explosion of such units to the injury of life, limb, or property.

(n) The term "approved" shall mean acceptable to the commissioner.

History: 1944 AC, p. 1404; 1954 AC, p. 310.

R 28.133, R 28.134 Rescinded.

History: 1944 AC, p. 1404; rescinded 1944 ACS 38, p. 39.

R 28.135 Persons selling or giving away explosives; written history of transaction; right to refuse certain persons permission to purchase explosives.

Rule 5. (1) Every person selling or giving away any explosives shall keep at his *principal* office or place of business a journal or book of record setting forth in

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legible writing a complete history of the transaction including the name and quantity of the explosives, the name, residence and business address of the purchaser, and the name and address of the person taking the explosive away, including the license number of automobile or truck. Such journal or book of record shall be open at all times for inspection by the commissioner, the sheriff or police officers of any city or village.

(2) If any person is disloyal or hostile to the United States or any state thereof, or advocates the overthrow by means of force and violence, or has been convicted of a crime punishable by imprisonment for a term of more than 1 year, the commissioner shall have the right to refuse such person or persons permission to purchase explosives in the state of Michigan.

History: 1944 AC p. 1405; 1944 ACS 38, p. 38; 1954 AC, p. 311.

R 28.136, R 28.137 Rescinded.

History: 1944 AC, p. 1405; rescinded 1944 ACS 38, p. 39.

R 28.138 Storage of explosives.

Rule 8. No explosives in any quantity whatsoever shall be stored or kept in any industrial plant or in any building used in whole or in part as dwelling, school, theater or other place of public assemblage or gathering, or within 500 feet of the same, without a special permit from the commissioner, nor shall any explosive be stored in any residential section.

History: 1944 AC, p. 1405; 1954 AC, p. 311.

R 28.139 Permanent storage magazines.

Rule 9. Permanent storage magazines shall be of 4 classes to be called class A, class B, class C, and class D, as follows:

(a) Class A. A magazine to contain over 3,000 pounds of explosives.

(These magazines shall be constructed of either of the following:

(i) Soft brick laid in lime mortar, walls to be 6 inches thick.

(ii) Iron of not less than 14 gauge, lined with soft brick laid in lime mortar or lined with tongue and grooved hardwood of not less than ⅞ inch in thickness or no. 1 ship lap and filled with a mixture consisting of 1 part cement and 10 parts sand and not less than 6 inches in thickness.

(iii) Wood walls, not less than 6 inches apart, inside wall to be of tongue and grooved hardwood not less than ⅞ inch thick or no. 1 ship lap and tight, outside wall to be covered with not less than 26 gauge iron carried to not less than 6 inches below base of the foundation. Walls shall be filled with coarse dry sand or a mixture of 1 part cement and 10 parts sand.)

(b) Class B. A magazine to contain not over 3,000 pounds of explosives.

(These magazines shall be constructed similar to class A magazines but may be erected on wheels or skids so they may be moved.)

(c) Class C. A magazine to contain not over 300 pounds of explosives.

(These magazines shall be constructed of double wood walls with sides not less than 5 inches apart, studs to be staggered and filled with coarse dry sand or a mixture of 1 part cement and 10 parts sand, and shall be covered with not less than 26 gauge iron, or of steel of suitable weight with inside wood wall of satisfactory material and filled with coarse dry sand or a mixture of 1 part cement and 10 parts sand.)

(d) Class D. A magazine to contain not over 50 pounds of explosives.

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(Magazines of this type shall be constructed of 2-inch hardwood plank securely bolted together and built in the shape of an ordinary contractor's toolbox, having a cover of the same material, this cover to hang over edge of box not less than 1 inch on all sides and to be covered with sheet metal, or of steel of suitable weight and proper dimensions.)

History: 1944 AC, p. 1405; 1954 AC, p. 311.

R 28.140 Magazines generally.

Rule 10. Magazines must be of ample size, be fire-resisting and as near bullet-proof as possible, and provide conditions whereby explosives may be safely kept with a minimum of deterioration.

History: 1944 AC, p. 1406; 1954 AC, p. 312.

R 28.141 Magazines; location.

Rule 11. All such magazines shall be suitably located, and wherever possible effort should be made to get a natural barricade which will cover the most important exposure to hazards. Where such natural barricade is not available artificial barricades may be required, depending upon the location and the contiguous hazards. The land immediately adjacent to any magazine for at least 50 feet in each direction shall be cleared and kept clear of all brush and combustible matter.

History: 1944 AC, p. 1406; 1954 AC, p. 312.

R 28.142 Foundations.

Rule 12. (1) Class A magazines may be of brick, concrete, stone or posts. They shall be of substantial construction and provide a minimum distance of 12 inches between ground and floor of magazine. Openings spaced not less than 5 feet apart, of not less than 6 inches in width and 4 inches in height, screened with ¼ inch rust resisting mesh or perforated iron or steel plates with openings not larger than ¼ inch.

(2) Class B and C magazines may be similar to class A, but shall provide a minimum of 12 inches between ground and floor of magazine.

History: 1944 AC, p. 1406; 1954 AC, p. 312.

R 28.143 Doors.

Rule 13. (1) Class A magazine doors shall be constructed of 3 thicknesses of ⅞-inch tongue and grooved hardwood, laid diagonally and covered with a wrought iron or steel plate of not less than ⅜ inch thick, or its equivalent.

(2) Class B magazine doors shall be constructed similar to class A or may be of 5 thicknesses of ⅞-inch tongue and grooved hardwood laid diagonally and covered with 26 gauge iron or its equivalent.

(3) Class C magazine doors or top for same shall be constructed of not less than 4 thicknesses of ⅞-inch tongue and grooved hardwood laid diagonally. These may be constructed similar to doors for class A magazines, or its equivalent.

History: 1944 AC, p. 1406; 1954 AC, p. 312.

R 28.144 Roof.

Rule 14. (1) Class A magazines shall be of a metal of not less than 26 gauge corrugated iron, lapped 2 corrugations unless covered with flat steel with standing seams. If roof is not bulletproof and location is such that it can be shot through, there shall be not less than 4 inches of sand between roof and contents of magazine.

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(2) Class B magazines shall be similar to class A or may be constructed of 4 thicknesses of ⅞-inch tongue and grooved hardwood covered with 26 gauge iron.

(3) Class C roof or top shall be constructed of not less than 3 thicknesses of ⅞-inch tongue and grooved hardwood laid diagonally and covered with 26 gauge iron.

History: 1944 AC, p. 1406; 1954 AC, p. 312.

R 28.145 Ventilation.

Rule 15. (1) Class A magazines shall be provided with interior ventilation by leaving a space 2 inches in width between the edge of the floor and wall about the entire perimeter of the floor, except at the door opening, and providing a similar space 2 inches in width around the entire perimeter of the ceiling or lining or by having floor planking separated ¼ inch in order to provide free circulation of air from ventilators located below floor level in foundation and through ventilators located above content line of the magazine or in roof.

(2) Class B magazines shall be ventilated similar to class A.

(3) Class C magazines shall have bottom floorboards spaced ¼ inch apart to provide for necessary ventilation.

History: 1944 AC, p. 1406; 1954 AC, p. 312.

R 28.146 Locks.

Rule 16. (1) Class A shall be of special construction for magazines or of substantial construction with a hasp that cannot be cut with a hack saw. Eyes or staples shall be bolted through the sides of the magazines with round head bolts.

(2) Class B magazines shall have locks similar to those specified for class A.

(3) Class C magazines shall have substantial padlocks similar to those specified in class A.

(4) Class D magazines shall have a substantial lock.

(5) Each explosive magazine shall be securely locked at all times except when explosives are being placed therein or being removed therefrom.

History: 1944 AC, p. 1406; 1954 AC, p. 313.

R 28.147 Door hinges.

Rule 17. (1) Class A magazines shall have hinges bolted through the side of the magazine with round head bolts or inside hinges used.

(2) Class B magazines shall have hinges similar to those specified for class A.

(3) Class C magazines shall have substantial hinges bolted through the side of the magazine and round head bolts used.

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.148 Signs.

Rule 18. (1) Class A and B magazines shall have signs posted approximately parallel to each side of the magazine at a distance not less than 50 feet and not more than 200 feet from magazine reading: "EXPLOSIVES—KEEP OFF." Letters shall be not less than 6 inches high.

(2) Class C and D magazines shall have painted on each side and top in letters not less than 4 inches high the words: "EXPLOSIVES—KEEP OFF."

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.149 Additional magazine.

Rule 19. All dealers and others having a permanent storage of explosives shall have an additional *magazine of suitable size and 1* of the above-described types

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of construction for the storage of blasting caps and electric blasting caps. Such magazine, if located on the same premises, or storing more than 5,000 pounds, shall be at least 100 feet distant from any other magazine if unbarricaded and 50 feet if barricaded, location to be approved by the commissioner.

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.150 Magazines for storage of dynamite or similar explosives.

Rule 20. Magazines for the storage of dynamite or similar explosives shall not be erected within 200 feet of each other if unbarricaded and 100 feet if barricaded.

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.151 Storage of blasting caps, detonators, and blasting supplies.

Rule 21. Blasting caps and electric blasting caps, detonators, and blasting supplies shall not be stored with other explosives, regardless of quantity. They shall be kept in separate magazines.

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.152 Opening packages of high explosives.

Rule 22. No package of high explosives shall at any time be opened within 50 feet of any magazine. A wooden wedge and mallet shall be used for the opening of explosive cases.

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.153 Smoking.

Rule 23. No person shall smoke within 50 feet of any explosive magazine.

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.154 Empty high explosive containers.

Rule 24. All empty high explosive containers shall be removed from magazines and destroyed by fire. Each magazine shall be kept free and clear from all paper, rubbish and grit, and debris of any kind, and shall be used exclusively for storage of explosives. No metal tools shall be kept in magazines. Inside of magazines shall not have any exposed or protruding metal parts.

History: 1944 AC, p. 1407; 1954 AC, p. 313.

R 28.155 Artificial light or heat in explosive magazines.

Rule 25. No artificial light other than portable electric dry cell battery lamps or lanterns may be used in explosive magazines. At no time shall an explosive magazine be provided with artificial heat.

History: 1944 AC, p. 1407; 1954 AC, p. 314.

R 28.156 Repairs or alterations.

Rule 26. Before any repairs or alterations are made to the interior of any explosive magazine, the explosives must be removed therefrom and the magazine shall be thoroughly cleaned and the commissioner notified.

History: 1944 AC, p. 1407; 1954 AC, p. 314.

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R 28.157 Condemned or leaking dynamite.

Rule 27. (1) Condemned or leaking dynamite shall not be repacked and offered for shipment unless the repacking is done by a competent person in the presence of or with the written consent of an inspector or with the written authority of the United States bureau of explosives.

(2) Leaking dynamite which is unsuitable for repacking shall be destroyed under the supervision of a competent person.

History: 1944 AC, p. 1407; 1954 AC, p. 314.

R 28.158 Removal of explosives; watchman.

Rule 28. The commissioner may, in his discretion, at any time he deems it necessary for public safety, require the removal of any explosives, or that a watchman be placed continuously in charge of any explosives.

History: 1944 AC, p. 1407; 1954 AC, p. 314.

R 28.159 Reporting accidents, thefts, fires, or explosions.

Rule 29. All accidents, thefts, fires, or explosions, no matter how small, occurring in connection with the keeping, storage, manufacture, sale, transportation or use of explosives shall be reported to the proper police authorities and to the commissioner at once by telegraph or telephone, and be supplemented by a detailed written statement to the commissioner.

History: 1944 AC, p. 1407; 1954 AC, p. 314.

R 28.160 New buildings, railroads, or highways near magazine.

Rule 30. Whenever new buildings are erected or new railroads or highways are constructed near a magazine, the permissive capacity of such magazine shall be reduced in conformity with the standard table of distances, as follows:

Standard Table of Distances

Blasting Caps and Electricity Caps		Other Explosives		Inhabited Bldg.	Public Ry.	Public Hwy.
No. Over	No. not Over	Lbs. Over	Lbs. not Over	*Barricaded Feet		
1,000	5,000			15	10	5
5,000	10,000			30	20	10
10,000	20,000			60	35	18
20,000	25,000		50	73	45	23
25,000	50,000	50	100	120	70	35
50,000	100,000	100	200	180	110	55
100,000	150,000	200	300	260	155	75
150,000	200,000	300	400	320	190	95
200,000	250,000	400	500	360	215	110
250,000	300,000	500	600	400	240	120
300,000	350,000	600	700	430	260	130
350,000	400,000	700	800	460	275	140
400,000	450,000	800	900	490	295	150
450,000	500,000	900	1,000	510	305	155
500,000	750,000	1,000	1,500	530	320	160

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Standard Table of Distances

Blasting Caps and Electricity Caps		Other Explosives		Inhabited Bldg.	Public Ry.	Public Hwy.
No. Over	No. not Over	Lbs. Over	Lbs. not Over	*Barricaded Feet		
750,000	1,000,000	1,500	2,000	600	360	180
1,000,000	1,500,000	2,000	3,000	650	390	195
1,500,000	2,000,000	3,000	4,000	710	425	210
2,000,000	2,500,000	4,000	5,000	750	450	225
2,500,000	3,000,000	5,000	6,000	780	470	235
3,000,000	3,500,000	6,000	7,000	805	485	245
3,500,000	4,000,000	7,000	8,000	830	500	250
4,000,000	4,500,000	8,000	9,000	850	510	255
4,500,000	5,000,000	9,000	10,000	870	520	260
5,000,000	7,500,000	10,000	15,000	890	535	265
7,500,000	10,000,000	15,000	20,000	975	585	290
10,000,000	12,500,000	20,000	25,000	1,055	635	315
12,500,000	15,000,000	25,000	30,000	1,130	680	340
15,000,000	17,500,000	30,000	35,000	1,205	725	360
17,500,000	20,000,000	35,000	40,000	1,275	765	380
		40,000	45,000	1,340	805	400
		45,000	50,000	1,400	840	420
		50,000	55,000	1,460	875	440
		55,000	60,000	1,515	910	455
		60,000	65,000	1,565	940	470
		65,000	70,000	1,610	970	485
		70,000	75,000	1,655	995	500
		75,000	80,000	1,695	1,020	510
		80,000	85,000	1,730	1,040	520
		85,000	90,000	1,760	1,060	530
		90,000	95,000	1,790	1,075	540
		95,000	100,000	1,815	1,090	545
		100,000	125,000	1,835	1,100	550
		125,000	150,000	1,900	1,140	570
		150,000	175,000	1,965	1,180	590
		175,000	200,000	2,030	1,220	610
		200,000	225,000	2,095	1,260	630
		225,000	250,000	2,155	1,295	650
		250,000	275,000	2,215	1,330	670
		275,000	300,000	2,275	1,365	690
		300,000	325,000	2,335	1,400	705
		325,000	350,000	2,390	1,435	720
		350,000	375,000	2,445	1,470	735
		375,000	400,000	2,500	1,500	750
		400,000	425,000	2,555	1,530	765
		425,000	450,000	2,605	1,560	780
		450,000	475,000	2,655	1,590	795
		475,000	500,000	2,705	1,620	810

*Barricaded as here used signifies that the building containing explosives is screened from other buildings, railways, or from highways by either natural or artificial barriers. Where such barriers do not exist, the distance SHOULD BE DOUBLED.

History: 1944 AC, p. 1407; 1954 AC, p. 314.

Departmental note: A railroad siding used exclusively for loading or unloading explosives is exempt from this table.

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R 28.161 Inspections.

Rule 31. Every magazine and the records of sales, etc., of all explosives shall be subject to inspection at any time by any police officer or the commissioner or his duly authorized representative.

History: 1944 AC, p. 1409; 1954 AC, p. 315.

R 28.162 Intent.

Rule 32. These rules concerning the storage of explosives in substantial quantities are intended to set up proper standards for safety, and no variations will be permitted which lower the factor of safety from these standards.

History: 1944 AC, p. 1409; 1954 AC, p. 315.

R 28.163 Reporting violation to prosecuting attorney and commissioner.

Rule 33. Any sheriff, police officer, or fire chief finding evidence of violation of these rules shall bring it to the immediate attention of the prosecuting attorney of the county where violation occurs and a report of such violation shall be submitted to the commissioner immediately.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.164 Inspection of magazines existing as of January 1, 1942.

Rule 34. All magazines existing as of January 1, 1942, will be inspected by the commissioner or his duly authorized representative, and any magazines which do not have factors of safety equal to magazines prescribed in these rules will be subject to orders for improvement or abandonment. Owners of defective magazines will be given 60 days in which to comply with such orders as may be made relative to their magazines.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.165 Ordinances, rules, and regulations of cities and municipalities.

Rule 35. Any existing ordinance, rule or regulation of any city or municipality which is more restrictive than these rules governing the manufacture, storage, sale, use or transportation of explosives, shall not be affected by anything contained herein, nor shall anything contained herein affect, modify, or limit the power of cities or municipalities in this state to make ordinances, rules or regulations more restrictive than these rules governing the manufacture, storage, sale, use, or transportation of explosives within their respective corporate limits, provided that R 28.131, R 28.133, and R 28.134 shall be complied with.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.166 Temporary construction; magazine.

Rule 36. For temporary construction work, a magazine having a capacity not to exceed 1 ton of dynamite may be constructed in accordance with any of the following specifications.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.167 Construction of temporary magazine; outer and inner boxes.

Rule 37. The principles of construction of a temporary magazine is simply that of placing 1 substantial box inside of another substantial box with a 5-inch space filled with coarse dry sand (not gravel or crushed rock). The outer box shall be built on the order of any ordinary contractor's toolbox equipped with a sloping hinged lid. It shall be constructed of ⅞-inch sheathing and covered with not less

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than 24 gauge galvanized sheet iron. The outer box shall be 1 foot longer, 1 foot wider, and 6 inches deeper than the interior box so that when the interior box is set inside the outer box the tops will be level with each other and there will be a 5-inch space on all sides for sand filling. The interior box shall be built of ⅞-inch sheathing properly surfaced on the inside and constructed so that no nail, bolt or metal screw head shall be exposed on the inside of the box. The cover to be of 2-inch hardwood plank covered with 12 gauge flat iron, and should overhang the edge of the box 1 inch on all sides. To prevent sand from falling into the storage space or shifting position, a cover may be placed over the sand space.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.168 Construction of hardwood magazine.

Rule 38. For similar purpose, a magazine may be built of 2-inch hardwood plank securely bolted together on all sides and built in the shape of an ordinary contractor's toolbox having cover of the same material as the other parts of the box, this cover to overhang the edge of the box 1 inch on all sides, all of which is to be covered with not less than 12 gauge flat iron.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.169 Construction of steel magazine.

Rule 39. For similar purpose, a magazine well and truly constructed of steel of suitable weight and proper dimensions may be used.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.170 Magazine foundation.

Rule 40. All such magazines shall be set on substantial foundation at least 6 inches off the ground and equipped with strong hinges securely bolted on the inside and with 2 strong hasps and with 2 suitable padlocks.

History: 1944 AC, p. 1409; 1954 AC, p. 316.

R 28.171 High explosives; storage limitations.

Rule 41. (1) Not more than 50 pounds of dynamite or similar high explosives shall be stored in any store, place of business, or building in this state, wherever storage is allowed in quantities of 50 pounds or less, the explosive shall then be stored and kept in a magazine well and suitably built of fire-resisting material or of wood not less than 2 inches thick covered with sheet iron. Such magazine shall be equipped with strong hinges, a good lock, suitable handles, and shall be mounted on casters or wheels and kept on the first floor of the building at a location to be determined by the commissioner or fire chief of the city or village in which building is located.

(2) In case explosives are to be stored outside the corporate limits of a city or village, similar approval must be obtained from the sheriff of the county where explosives are to be stored.

(3) In no event shall there be any storage of explosives in any city or village that has an ordinance prohibiting such storage.

History: 1944 AC, p. 1409; 1954 AC, p. 317.

R 28.172 Vehicles generally.

Rule 42. Every dealer in, or transporter of, explosives (who makes deliveries of explosives) shall have 1 or more suitable vehicles for such purpose.

History: 1944 AC, p. 1409; 1954 AC, p. 317.

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R 28.173 Vehicle; body.

Rule 43. The body of each such vehicle used for the transportation of explosives shall be entirely enclosed. The doors shall be equipped with strong hinges securely bolted on the inside and provided with 2 suitable padlocks which shall be kept locked at all times when explosives are carried. The entire body shall be constructed that no bolts, screws, nails, or any metal shall be exposed on the inside thereof. In quantities not to exceed 6,000 pounds it shall be satisfactory to use securely fastened tarpaulin for the cover.

History: 1944 AC, p. 1410; 1954 AC, p. 317.

R 28.174 Vehicle; signs.

Rule 44. Each such vehicle shall bear signs on the front, rear and each side reading: "EXPLOSIVES" in white letters upon a red background, which letters shall not be less than 5 inches in height.

History: 1944 AC, p. 1410; 1954 AC, p. 317.

R 28.175 Vehicle; fire extinguishers.

Rule 45. Each such vehicle so used shall be equipped with 2 approved fire extinguishers which shall be properly charged and in good working order at all times.

History: 1944 AC, p. 1410; 1954 AC, p. 317.

R 28.176 Vehicle; mechanical condition; loading.

Rule 46. Each vehicle used in the transportation of explosives shall be in good mechanical condition and at no time shall it be loaded beyond its capacity.

History: 1944 AC, p. 1410; 1954 AC, p. 317.

R 28.177 Vehicle; inspections.

Rule 47. Each owner or operator of such vehicle, if it be a motor vehicle, shall make daily inspections of his vehicle and see that the fire extinguishers are in good condition, that the chassis, motor and pan are free from grease and oil, and that all of the mechanical parts are in good working order.

History: 1944 AC, p. 1410; 1954 AC, p. 317.

R 28.178 Vehicle; driving past fires.

Rule 48. At no time shall any vehicle be driven past fires of any kind burning on or near the highway or other thoroughfare until after due caution shall have been taken to ascertain that such passing may be made safely.

History: 1944 AC, p. 1410; 1954 AC, p. 317.

R 28.179 Transporting explosives in trailer prohibited.

Rule 49. Explosives shall not be transported in any form of trailer, nor shall any trailer be attached to any vehicle which is carrying explosives.

History: 1944 AC, p. 1410; 1954 AC, p. 317.

R 28.180 Transportation of dynamite and blasting caps.

Rule 50. Not more than 50 pounds of dynamite, nor more than 100 blasting caps or electric blasting caps, shall be transported in any vehicle which does not comply with the foregoing requirements.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

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R 28.181 Transportation of more than 100 blasting caps.

Rule 51. Not more than 100 blasting caps of any kind shall be transported in any vehicle unless stored in a separate compartment constructed of 2-inch wood covered with sheet metal of not less than no. 8 gauge with heavy hinges on the door or cover, and when other explosives are transported in the same vehicle, the maximum number of blasting caps which may be carried in this compartment is 5,000.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.182 Loading and unloading explosives.

Rule 52. In loading or unloading explosives care shall be given to the handling of same and in loading these cases shall be placed or stowed as to prevent displacement during transit. No bail-hook or metal tools shall be used in loading or unloading.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.183 Packing explosives; marking.

Rule 53. When explosives are being transported they shall be packed in strong wooden boxes or other containers suitable for that purpose. Each box or case shall be plainly marked stating the make and type of explosives contained therein.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.184 Vehicle operators.

Rule 54. Only careful, capable and reliable persons shall operate vehicles carrying explosives.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.185 Vehicle operators; familiarity with state law, regulations, and ordinances.

Rule 55. Each such operator shall be familiar with the state law and regulations and with the local ordinances relating to the transportation of explosives.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.186 Stopping and parking vehicles.

Rule 56. Vehicles shall not make unnecessary stops and shall not be parked in any public street or highway or in any repair shop or garage or near any church, school, or other place of public assembly, unless for emergency repairs to the vehicle.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.187 Vehicle speed; route.

Rule 57. Vehicles carrying explosives shall not travel faster than 35 miles per hour and shall not coast down any hill. Such vehicles must use the least traveled main thoroughfares through the cities or towns through which it is necessary to pass.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.188 Minimum age of vehicle operator.

Rule 58. No vehicle carrying explosives shall be operated by any person under 21 years of age.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

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R 28.189 Acts prohibited in vehicle.

Rule 59. The operator of a vehicle carrying explosives shall not smoke, carry matches, or use intoxicating liquors while so engaged or permit any other person on such vehicle to do so.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.190 Passengers or unnecessary persons.

Rule 60. No passengers or unnecessary persons shall be permitted to ride on vehicles carrying explosives.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.191 Materials and items prohibited in vehicles.

Rule 61. No metal, metal tools, carbides, oils, matches, firearms, electric storage batteries, inflammable substances, acids, oxidizing, or corrosive compounds shall be carried in the bed or body of any motor truck or vehicle transporting explosives.

History: 1944 AC, p. 1410; 1954 AC, p. 318.

R 28.192 Interstate transportation of explosives into state.

Rule 62. There shall be no interstate transportation of explosives into this state except in accordance with the rules and regulations prepared and published by the interstate commerce commission.

History: 1944 AC, p. 1410; 1954 AC, p. 319.

R 28.193 Unloading railroad cars.

Rule 63. All railroad cars loaded with explosives shall be properly unloaded and their contents transported to magazines in vehicles which comply with these rules. Except during actual unloading, such cars shall be securely locked.

History: 1944 AC, p. 1410; 1954 AC, p. 319.

R 28.194 Transporting explosives on vessels.

Rule 64. No explosive shall be carried or transported on the waters of the state of Michigan on any vessel which is carrying passengers, except according to federal regulations governing steamboats.

History: 1944 AC, p. 1411; 1954 AC, p. 319.

R 28.195 Loading and unloading explosives on boats.

Rule 65. The loading and unloading of explosives on boats at any dock shall not be permitted without special permission in writing from the commissioner. These officials shall have the right to prescribe the requirements pertaining to storage of explosives in any port warehouse, or any dock, or in any freight warehouse, such storage not to exceed 24 hours.

History: 1944 AC, p. 1411; 1954 AC, p. 319.

R 28.196 Disapproval by commissioner of storage location.

Rule 66. The commissioner shall have the right to disapprove any location he deems unfit or dangerous for storing explosives and refuse permission to store explosives in such location.

History: 1944 AC, p. 1411; 1954 AC, p. 319.

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R 28.197 Right to refuse or revoke applicant's permission to handle explosives.

Rule 67. When any applicant is found to be unreliable or inexperienced in the handling of explosives, the commissioner shall have the right to refuse such applicant permission to store, keep, sell, or deal in explosives; or if permission was obtained through fraud, misrepresentation or mistake, such permission may be immediately revoked.

History: 1944 AC, p. 1411; 1954 AC, p. 319.

R 28.198 Reporting suspicious persons to police.

Rule 68. A vendor of explosives shall immediately report to the most available police officer any person who desires to purchase explosives of whom he is suspicious and shall withhold the sale until after proper investigation is made by police authorities.

History: 1944 AC, p. 1411; 1954 AC, p. 319.

R 28.199 Right to refuse certain persons permission to handle explosives.

Rule 69. (1) If any individual, or members of a firm or partnership, or any director, is disloyal or hostile to the United States or any state thereof, or advocates the overthrow thereof by means of force and violence, or has been convicted of a crime punishable by imprisonment for a term of more than 1 year, the commissioner shall have the right to refuse such person or persons permission to store, keep, sell, or deal in explosives in the state of Michigan.

(2) The commissioner shall also in his discretion refuse to issue any permit under these rules in such instances as the commissioner shall determine to be for the safety of the state of Michigan.

History: 1944 AC, p. 1411; 1954 AC, p. 319.

R 28.200 Applicability.

Rule 70. The provisions of these rules shall not apply to the armed forces of the United States or to the national guard.

History: 1944 AC, p. 1411; 1954 AC, p. 319.

FIRE MARSHAL DIVISION

FLAMMABLE LIQUIDS

R 28.221—R 28.308 Rescinded.

History: 1944 AC, pp. 1412-1426; 1954 AC, pp. 320-338; rescinded 1954 ACS 74, p. 5, Eff. Mar. 8, 1973.

LIQUEFIED PETROLEUM GASES

R 28.401—R 28.561 Rescinded.

History: 1944 ACS 10, pp. 30-52; 1944 ACS 30, pp. 21-53; 1954 AC, pp. 338-373; rescinded 1954 ACS 22, p. 5, Eff. May 13, 1960.

FLAMMABLE LIQUIDS

(By authority conferred on the department of state police by sections 3, 3a, 3c, 5, and 5a of Act No. 207 of the Public Acts of 1941, as amended, being §§29.3, 29.3a, 29.3c, 29.5, and 29.5a of the Michigan Compiled Laws)

GENERAL PROVISIONS

R 28.601 Scope of rules.

Rule 1. (1) These rules shall apply to all persons, firms, copartnerships, corporations and voluntary associations transporting, storing, handling, selling,

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using or processing flammable liquids, and shall also apply to the owner of any building or premises, in or on which flammable liquids are stored or kept, and to the owner of any equipment used in transporting, storing, handling, selling or processing flammable liquids, and to the state of Michigan, or any political subdivision thereof. The word "owner" shall be given its ordinary meaning and be held to include any trustee, a board of trustees of such property, or any person having a freehold interest in property, but a mortgagee of such property shall not be deemed an owner thereof.

(2) These rules shall apply to the construction or remodeling of buildings and plants for flammable liquids and shall apply to new installation of and replacement of equipment for flammable liquids. These rules shall also apply to existing buildings, plants or equipment hereafter used for flammable liquids, but shall not be construed to require structural alterations to existing buildings, plants or equipment now used for flammable liquids, except as specifically required by these rules, unless the commissioner shall determine the conditions constitute a distinct hazard to life or property.

(3) Any person or his duly authorized agent, confronted with practical difficulties in carrying out the strict letter of these rules, may apply to the commissioner for modification thereof. Only such modifications as will not constitute a distinct hazard to life or property will be considered. The decision of the commissioner, including the particulars of any such application, shall be entered upon the records of the Michigan state police, and a signed copy thereof shall be furnished the applicant.

History: 1954 ACS 5, p. 5, Eff. Feb. 15, 1956.

R 28.602 Definitions.

Rule 2. As used in these rules:

(a) "Aircraft service station" means that portion of an airport where a flammable liquid used as aircraft fuel is stored or dispensed, and includes facilities essential to that storage or dispensing.

(b) "Approved" means a device, method, or piece of equipment which meets the applicable standards prescribed by the underwriters' laboratories, inc., national board of fire underwriters, national fire protection association, American petroleum institute, American society of mechanical engineers, American society for testing materials, American standards association, or an organization designated by the state fire marshal, but only for those standards which are deemed acceptable by the state fire marshal.

(c) "Approved permanently attached extinguishing system" means a fixed foam or other recognized extinguishing system acceptable to the state fire marshal.

(d) "Automotive service station" means that portion of a property where flammable liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles or internal combustion engines.

(e) "Baffle" means a nonliquid-tight transverse partition in a cargo tank.

(f) "Barrel" means a volume of 42 U.S. gallons, unless the context indicates a different meaning.

(g) "Building" means a structure, framework, or housing, public or private.

(h) "Bulk plant" means that portion of a property where a flammable liquid is received by tank vessel, pipeline, *tank car, or tank* vehicle, and is stored or

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blended in bulk for distribution of the liquids by tank vessel, pipeline, tank car, tank vehicle, or container.

(i) "Cargo tank" means a container having a liquid capacity of more than 100 gallons mounted permanently or otherwise on a tank vehicle, but only while the container contains a flammable liquid. "Cargo tank" does not include a container used solely for the purpose of supplying fuel for the propulsion of the tank vehicle on which it is mounted.

(j) "Chemical plant" means a plant engaged in the manufacture or production of chemicals to the extent that a flammable liquid is involved in the processing, compounding, or formulating of the chemicals.

(k) "Closed container" means a container sealed in a manner which prevents liquids and vapors from escaping at temperatures at or above -30 degrees Fahrenheit but not above 130 degrees Fahrenheit.

(l) "Commercial or industrial establishment" means a place in which the storage, handling, or use of a flammable liquid is incidental to the principal business or process.

(m) "Commissioner" means the director of the department of state police or a representative designated by the director.

(n) "Compartment" means a liquid-tight division in a cargo tank.

(o) "Container" means a can, bucket, receptacle, barrel, drum, or portable tank, but does not include a tank, cargo tank, or tank car.

(p) "Crude petroleum" means a hydrocarbon mixture that has a flash point below 150 degrees Fahrenheit and which has not been processed in a refinery.

(q) "Flammable liquid" means a liquid that has a flash point below 200 degrees Fahrenheit and that has a vapor pressure of not more than 40 pounds per square inch (absolute) at 100 degrees Fahrenheit. Flammable liquids shall be divided into 3 classes as follows:

(i) Class I includes liquids that have flash points at or below 20 degrees Fahrenheit.

(ii) Class II includes liquids that have flash points above 20 degrees Fahrenheit but at or below 70 degrees Fahrenheit.

(iii) Class III includes liquids that have flash points above 70 degrees Fahrenheit and below 200 degrees Fahrenheit. The volatility of flammable liquids is increased when artificially heated to temperatures equal to or higher than their flash points. When so heated, class II or III flammable liquids shall be subject to the applicable requirements for class I or II flammable liquids. These rules shall also be applied to a liquid which has a flash point at or above 200 degrees Fahrenheit if heated to a temperature equal to or above the liquid's flash point temperature.

(r) "Flash point" means the minimum temperature, in degrees Fahrenheit, at which a flammable liquid gives off flammable vapor as determined by the appropriate test procedure and apparatus as specified below:

(i) The flash point of a flammable liquid having a flash point below 175 degrees Fahrenheit shall be determined in accordance with the "standard method of test for flash point by means of the tag closed tester" as published in the American society for testing materials in pamphlet D56-77 of 1977.

(ii) The flash point of a flammable liquid having a flash point of 175 degrees Fahrenheit or above shall be determined in accordance with the "standard method of test for flash point by means of the Pensky-Martens closed tester" as published in the American society for testing materials in pamphlet D93-77 of 1977

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Representative examples of the classes of flammable liquids are:

I	II	III
Ether	Denatured alcohol	Kerosene
Acetone	Toluol	Turpentine
Benzol	Methyl alcohol	Amyl alcohol
Gasoline		Mineral spirits
Methyl acetate		Stoddard solvent
Collodion		Fuel oil
Carbon bisulphide (Disulphide)		Whiskey

A manufactured liquid commodity, such as paint, varnish, dryer, cleaning solution, or polishing liquid, which contains flammable liquid shall be considered a flammable liquid and shall be classified, as provided in subdivision (q)(i), (ii), (iii), according to the flash point of the mixture.

(s) "Head" or "bulkhead" means a liquid-tight transverse closure at the end of a cargo tank or between compartments of a cargo tank.

(t) "Marine service station" means that portion of property on which a flammable liquid used to fuel the motors of floating craft is stored and dispensed whether on shore, on piers, on wharves, or on barges, and includes all facilities used in connection with that storage or dispensing.

(u) "Processing plant" means that portion of property in which a flammable liquid is mixed, heated, separated, or otherwise processed as the principal business.

(v) "Refinery" means a plant in which a flammable liquid is produced on a commercial scale from crude petroleum, natural gasoline, or any other hydrocarbon source.

(w) "Safety can" means an approved container of not more than 5-gallon capacity which has a spring-closing lid and spout cover.

(x) "Tank" means a vessel used to store a flammable liquid and fixed in place or connected to a piping system.

(y) "Tank vehicle" means a vehicle used for the bulk transportation of a flammable liquid, including a tank truck, tank trailer, tank semitrailer or a combination of tank trucks, tank trailers, and tank semitrailers.

(z) "Vapor pressure" means the pressure, measured in pounds per square inch (absolute), exerted by a volatile liquid as determined by the "standard method of test for vapor pressure of petroleum products (Reid method)" as published in the American society for testing materials in pamphlet D323-72 of 1972.

(aa) "Semitrailer" means a vehicle with or without motive power, other than a pole-trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests on, or is carried by, another vehicle.

(bb) "Supply depot" means that portion of a property where a flammable liquid is received by marine vessel, pipeline, railroad car, truck, truck pulling a trailer, truck tractor pulling a semitrailer, or truck tractor pulling a semitrailer and trailer combination, and is stored or blended in bulk for the purpose of distributing the liquid by marine vessel, pipeline, railroad car, truck, truck pulling a trailer, truck tractor pulling a semitrailer, or truck tractor pulling semitrailer and trailer combination.

(cc) "Trailer" means a vehicle with or without motive power, other than a pole-trailer, designed for carrying persons or property and for being drawn by a

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motor vehicle and so constructed that no part of its weight rests on the towing vehicle.

(dd) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(ee) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load so drawn.

(ff) "Vehicle" means a device in, on, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively on stationary rails or tracks.

History: 1954 ACS 5, p. 5, Eff. Feb. 15, 1956; 1954 ACS 99, p. 8, Eff. May 10, 1979.

R 28.602a Adoption by reference.

Rule 2a. The standards and regulations listed in this rule are incorporated by reference and adopted as part of these rules. Copies of the adopted standards and regulations are available for inspection and distribution at cost either at the office of the State Police Fire Marshal Division, 7150 Harris Drive, Lansing, Michigan 48913, or from the organization listed in the appropriate subdivision.

(a) The following standards and regulations may be obtained from the National Fire Protection Association, 60 Batterymarch, Boston, Massachusetts 02110, at the stated cost:

(i) "National electric code," pamphlet no. 70, 1978. $3.25.

(ii) "Standards for the installation of portable fire extinguishers," pamphlet no. 10,1978. $3.25.

(b) The following standards and regulations may be obtained from the American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, at the stated cost:

(i) "Standard method of test for flash point by means of the Pensky-Martens closed tester," pamphlet no. D93-77, 1977. $1.75.

(ii) "Standard method of test for flash point by means of the tag closed tester," pamphlet no. D56-77, 1977. $1.75.

(iii) "Standard method of test for vapor pressure of petroleum products (Reid method)," pamphlet no. D323-72, 1972. $1.75.

History: 1954 ACS 74, p. 5, Eff. Mar. 8, 1973; 1954 ACS 99, p. 10, Eff. May 10, 1979.

R 28.603 Right to refuse delivery.

Rule 3. (1) Any person may refuse to deliver flammable liquid into any type of container to any other person who in his judgment is not of sufficient age or sufficiently responsible to understand the proper use of the product or when he has reason to believe that the intended use of the flammable liquid would constitute a hazard to life or property.

(2) Any person shall refuse to deliver flammable liquids into any tank or container or under any circumstances prohibited by these regulations.

History: 1954 ACS 5, p. 7, Eff. Feb. 15, 1956.

R 28.604 Enforcement.

Rule 4. Enforcement of these regulations shall be by the procedure established by Act No. 207 of the Public Acts of 1941, as amended.

History: 1954 ACS 5, p. 7, Eff. Feb. 15, 1956.

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R 28.604a Rescission.

Rule 4a. The rules entitled "Flammable Liquids Regulations," being R 28.221 to R 28.308 of the Michigan Administrative Code and appearing on pages 320 to 338 of the 1954 Michigan Administrative Code, are rescinded.

History: 1954 ACS 74, p. 5, Eff. Mar. 8, 1973.

DIVISION I
TRANSPORTATION OF FLAMMABLE LIQUIDS

R 28.605 Application.

Rule 5. (1) No person shall transport any flammable liquids, other than motor fuel in the fuel supply tank of a vehicle, on any highway, street or alley in the state of Michigan except in a tank vehicle or containers as hereinafter provided, or in a tank vehicle complying with requirements of the interstate commerce commission.

(2) R 28.606 to R 28.635 shall apply to the transportation of flammable liquids by and the dispensing of flammable liquids from tank vehicles.

(3) R 28.636 and R 28.637 shall apply to flammable liquids in containers.

History: 1954 ACS 5, p. 7, Eff. Feb. 15, 1956.

R 28.606 Tank specifications.

Rule 6. (1) Cargo tanks for the transportation of flammable liquids shall be constructed of material as provided for in this rule.

(2) Cargo tanks constructed of mild steel.

All sheets for such cargo tanks shall be of mild steel to meet the following requirements:

Yield point, minimum ..... 25,000 pounds per square inch
Ultimate strength, minimum ..... 45,000 pounds per square inch
Minimum elongation, standard 2-inch sample 20%

The minimum thicknesses of tank sheets shall be limited by the volume capacity of the tank expressed in terms of gallons per inch in length; and by the distance between bulkheads, baffles or other shell stiffeners, as well as by the radius of shell curvature in case of shell sheets, as follows:

Minimum Thickness of Head, Bulkhead, and Baffle Sheets

Mild steel

Heads, Bulkheads, or Baffles	Dished	Corrugated	Reinforced	Rolled
Volume capacity of tank in gallons per inch of length	10 or Less	Over 10 to 14	Over 14 to 18	Over 18
U.S. standard gauge no.	14	13	12	11

Thickness of exterior head sheets shall never be less than the maximum requirements for shell sheets *in any specific unit.*

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Minimum Thickness of Shell Sheets
Mild steel

Volume capacity of tank in gallons per inch of length	Distance between attachments of bulkheads, baffles, or other shell stiffeners		
U.S. standard gauge for maximum shell radius of less than 70 inches:	36 inches or less	Over 36 inches to 54 inches	Over 54 inches
10 gallons or less	14	14	14
Over 10 to 14 gallons	14	14	13
Over 14 to 18 gallons	14	13	12
Over 18 gallons	13	12	11
U.S. standard gauge for maximum shell radius of 70 inches or more, but less than 90 inches:			
10 gallons or less	14	14	13
Over 10 to 14 gallons	14	13	12
Over 14 to 18 gallons	13	12	11
Over 18 gallons	12	11	10
U.S. standard gauge for maximum shell radius of 90 inches or more, but not over 125 inches:			
10 gallons or less	14	13	12
Over 10 to 14 gallons	13	12	11
Over 14 to 18 gallons	12	11	10
Over 18 gallons	11	10	9
U.S. standard gauge for maximum shell radius of 125 inches or more:			
10 gallons or less	13	12	11
Over 10 to 14 gallons	12	11	10
Over 14 to 18 gallons	11	10	9
Over 18 gallons	10	9	8

(3) Cargo tanks constructed of low alloy low carbon (high tensile) steel.

All sheets for such cargo tanks shall be of low alloy, low carbon steel, commonly known as high tensile, meeting the following requirements:

Yield point, minimum ..... 50,000 pounds per square inch
Ultimate strength, minimum ..... 65,000 pounds per square inch
Maximum elongation, standard 2-inch sample 20%

The minimum thicknesses of tank sheets shall be limited by the volume capacity of the tank, expressed in terms of gallons per inch of length; and by the distance between bulkheads, baffles, or other shell stiffeners, as well as by the radius of shell curvature in the case of shell sheets, as follows:

Minimum Thickness of Head, Bulkhead, and Baffle Sheets
Low alloy low carbon (high tensile) steel

Heads, Bulkheads, or Baffles	Dished	Corrugated	Reinforced	Rolled
Volume capacity of tank in gallons per inch of length	10 or Less	Over 10 to 14	Over 14 to 18	Over 18
U.S. standard gauge no.	15	14	13	12

Thickness of exterior head sheets shall never be less than the maximum *requirements* for shell sheets in any specific unit.

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Minimum Thickness of Shell Sheets
Low alloy low carbon (high tensile) steel

Volume capacity of tank in gallons per inch of length	Distance between attachments of bulkheads, baffles, or other shell stiffeners		
U.S. standard gauge for maximum shell radius of less than 70 inches:	**36 inches or less**	**Over 36 inches to 54 inches**	**Over 54 inches**
10 gallons or less	16	16	15
Over 10 to 14 gallons	16	15	14
Over 14 to 18 gallons	15	14	13
Over 18 gallons	14	13	12
U.S. standard gauge for maximum shell radius of 70 inches or more, but less than 90 inches:			
10 gallons or less	16	15	14
Over 10 to 14 gallons	15	14	13
Over 14 to 18 gallons	14	13	12
Over 18 gallons	13	12	11
U.S. standard gauge for maximum shell radius of 90 inches or more, but not over 125 inches:			
10 gallons or less	15	14	13
Over 10 to 14 gallons	14	13	12
Over 14 to 18 gallons	13	12	11
Over 18 gallons	12	11	10
U.S. standard gauge for maximum shell radius of 125 inches or more:			
10 gallons or less	14	13	12
Over 10 to 14 gallons	13	12	11
Over 14 to 18 gallons	12	11	10
Over 18 gallons	11	10	9

Comparative Thickness of Metal Sheets

Approximate Thickness		Steel Sheets Manufacturer's Gauge No.
Fractions of Inch	**Decimals of Inch**	
1/16	0.0588	16
	0.0673	15
	0.0747	14
	0.0897	13
	0.1046	12
1/8	0.1196	11
	0.1345	10
	0.1495	9

(4) Joints shall be made in accordance with recognized good practice and the efficiency of any joint shall be not less than 85% of that of the adjacent metal in the tank. Low alloy, low carbon (high tensile) steel sheets, however, shall be joined by fusion welding.

(5) Mild steel and low alloy, low carbon steel may be used in the construction of a single tank, provided each material, where used, shall comply with the minimum requirements of its respective specifications for that section of the tank.

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(6) Cargo tanks constructed of aluminum alloys for high strength welded construction.

(a) All sheets for shell, heads and bulkheads of such cargo tanks shall be of aluminum alloys GR20A (5052 commercial designation), GR40A (5154 commercial designation) or GM40A (5086 commercial designation), conforming to American society for testing materials specification B178-54T.

(b) All heads, bulkheads, baffles, and other shell stiffeners may use O temper (annealed) or stronger tempers. All shells shall be of H32 temper or H34 temper, except that when shell thicknesses of 0.250 inch or thicker are used, the H112 temper is additionally permitted.

(c) The minimum nominal thicknesses of tank sheets shall be limited by the volume capacity of the tank, expressed in terms of gallons per inch of length; and by the distance between bulkheads, baffles, or other shell stiffeners, as well as by the radius of shell curvature in the case of shell sheets, as follows:

Minimum Thickness of Head, Bulkhead, and Baffle Sheets*
(Aluminum Alloys GR20A, GR40A, and GM40A)

Heads, Bulkheads, or Baffles	Dished	Corrugated	Reinforced	Rolled
Volume capacity of tank in gallons per inch of length	10 or Less	Over 10 to 14	Over 14 to 18	Over 18
Thickness in decimals of inches	.096	.109	.130	.151

*Thickness of exterior head sheets shall never be less than the maximum requirements for shell sheets.

Minimum Thickness of Shell Sheets
(Aluminum Alloys GR20A, GR40A, and GM40A)

Volume capacity of tank in gallons per inch of length	Distance between attachments of bulkheads, baffles, or other shell stiffeners		
Inch decimal thickness for maximum shell radius of less than 70 inches:	36 inches or less	Over 36 inches to 54 inches	Over 54 inches
10 gallons or less	.087	.087	.096
Over 10 to 14 gallons	.087	.096	.109
Over 14 to 18 gallons	.096	.109	.130
Over 18 gallons	.109	.130	.151
Inch decimal thickness for maximum shell radius of 70 inches or more, but less than 90 inches:			
10 gallons or less	.087	.096	.109
Over 10 to 14 gallons	.096	.109	.130
Over 14 to 18 gallons	.109	.130	.151
Over 18 gallons	.130	.151	.173
Inch decimal thickness for maximum shell radius of 90 inches or more, but less than 125 inches:			
10 gallons or less	.096	.109	.130
Over 10 to 14 gallons	.109	.130	.151
Over 14 to 18 gallons	.130	.151	.173
Over 18 gallons	.151	.173	.194

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Inch decimal thickness for maximum shell radius of 125 inches or more:	36 inches or less	Over 36 inches to 54 inches	Over 54 inches
10 gallons or less	.109	.130	.151
Over 10 to 14 gallons	.130	.151	.173
Over 14 to 18 gallons	.151	.173	.194
Over 18 gallons	.173	.194	.216

(d) Note: Typical mechanical properties of alloys GR20A, GR40A and GM40A are as follows:

Typical Mechanical Properties of Aluminum Alloys GR20A (Alloy 5052), GR40A (Alloy 5154), and GM40A (Alloy 5086)••

Alloy and Temper		Ultimate Strength Lb./Sq. In.	Yield Strength (Offset = 0.2%)• Lb./Sq. In.	Elongation % in 2 In. Sheet Specimen
GR20A-O	(5052-O)	28,000	13,000	25
GR20A-H112	(5052-H112)••	28,000	16,000	7
GR20A-H32	(5052-H32)	33,000	28,000	12
GR20A-H34	(5052-H34)	38,000	31,000	10
GR40A-O	(5154-O)	35,000	18,000	27
GR40A-H112	(5154-H112)••	32,000	18,000	8
GR40A-H32	(5154-H32)	39,000	30,000	15
GR40A-H34	(5154-H34)	42,000	33,000	13
GM40A-O	(5086-O)	38,000	17,000	22
GM40A-H112	(5086-H112)••	36,000	18,000	8
GM40A-H32	(5086-H32)	42,000	30,000	12
GM40A-H34	(5086-H34)	47,000	37,000	10

•The term "Offset = 0.2%" is mentioned in this table, since it is the accepted aluminum association standard for determining the yield strength of all aluminum alloys.

••Mechanical properties listed for H112 temper are minimum values in the thickness range of 0.250—0.500 inch.

(e) In cargo tanks constructed of aluminum alloys, all joints in and to tank shells, heads and bulkheads shall be welded. All welded aluminum joints shall be made in accordance with recognized good practice, and the efficiency of a joint shall not be less than 85% of the annealed properties of the material in question. Aluminum alloys for high strength welded construction shall be joined by an inert gas arc welding process using filler metals R-GR40A, E-GR40A (5154 alloy) and R-GM50A, E-GM50A (5356 alloy) as conforming to American society of testing materials specification no. B285-54T (American welding society specification no. A5.10-54T).

(6) Materials other than mild steel, low alloy low carbon (high tensile) steel or aluminum may be used for the construction of cargo tanks which will provide strength and safety qualities equal to or exceeding the requirements of this rule.

History: 1954 ACS 5, p. 7, Eff. Feb. 15, 1956.

R 28.607 Test.

Rule 7. (1) At the time of manufacture every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch applied to each compartment, or to the whole tank if it be not divided into compartments. Such pressure shall be maintained for a period of at least 5 minutes, during which, if the test is by air pressure, the entire exterior surface of all the joints shall be coated with a solution of soap and water, heavy oil, or other material suitable for the

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purpose, foaming or bubbling of which will indicate the presence of leaks. Hydrostatic pressure, if used, shall be gauged at the top of the tank; and the tank shall be inspected at the joints for the issuance of liquid to indicate leaks. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed as evidence of failure to meet the requirements of this specification.

(2) Every cargo tank which has been out of transportation service for a period of 1 year or more, or any cargo tank which has been involved in an accident which resulted in damage to said cargo tank, or any cargo tank which has been repaired due to structural failure which resulted in a leak shall be retested in accordance with the requirements stated herein.

History: 1954 ACS 5, p. 12, Eff. Feb. 15, 1956.

R 28.608 Tank outlets.

Rule 8. Outlets shall be substantially made and attached to the tank and shall be so constructed as to permit complete drainage.

History: 1954 ACS 5, p. 12, Eff. Feb. 15, 1956.

R 28.609 Bulkheads and baffles.

Rule 9. (1) Every compartment over 90 inches in length shall be provided with baffles, the number of which shall be such that the linear distance between any 2 adjacent baffles or between any tank head or bulkhead and the baffles nearest it shall in no case exceed 60 inches.

(2) The cross sectional area of each baffle shall be not less than 80% of the cross sectional area of the tank and the thickness of such baffle shall be not less than that required for heads and bulkheads of the cargo tank in which installed.

(3) Cargo tanks with compartments carrying flammable liquids of different classes shall be provided with an air space between compartments and this air space shall be equipped and maintained with drainage facilities operative at all times.

History: 1954 ACS 5, p. 12, Eff. Feb. 15, 1956.

R 28.610 Tank vehicle tank vents.

Rule 10. (1) Each tank or compartment of a tank vehicle shall be provided with a vacuum and pressure operating vent with a minimum effective opening of 0.44 square inches.

(2) Each tank or compartment of a tank vehicle shall also be provided with an emergency venting opening having a net area in square inches equal to 1.25 plus 0.0025 times the capacity of the tank or compartment in gallons. If the emergency venting facility operates in response to elevated temperatures, the critical temperature for such operating shall not exceed 200 degrees Fahrenheit.

History: 1954 ACS 5, p. 12, Eff. Feb. 15, 1956.

R 28.611 Valve and faucet connections.

Rule 11. Draw-off valves and faucets shall have discharge ends threaded, or they shall be designed so as to permit being tightly connected to hose extending to fill pipe.

History: 1954 ACS 5, p. 12, Eff. Feb. 15, 1956.

R 28.612 Emergency-discharge control.

Rule 12. (1) The outlets of each cargo tank or compartment hereafter put in service for transportation of flammable liquids shall be equipped with a reliable

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and efficient shut-off valve located inside the shell; or in the sump when it is an integral part of the shell; and designed so that the valve must be kept closed except during loading and unloading operations; provided however, that all tank vehicles over 2,000 gallons total capacity now in service for class I and II flammable liquids shall also be equipped within 1 year from the date of the adoption of these regulations.

(2) The operating mechanism for the valve shall be provided with a secondary control, remote from the fill openings and discharge faucets, for use in the event of accidents or fire during delivery operations.

(3) The control mechanism shall be provided with a fusible section which will permit valves to close automatically in case of fire.

(4) In every case there shall be provided between the shut-off valve seat and discharge faucet a shear section which will break under strain unless the discharge piping is so arranged as to afford the same protection and leave the shut-off valve seat intact.

History: 1954 ACS 5, p. 12, Eff. Feb. 15, 1956.

R 28.613 Can boxes and buckets.

Rule 13. Can boxes and buckets shall be kept clean and in good state of repair.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

R 28.614 Tires.

Rule 14. All tank vehicles shall be equipped with pneumatic tires.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

R 28.615 Mounting cargo tanks.

Rule 15. Every cargo tank shall be adequately supported upon and securely attached to or be a part of the tank vehicle upon which it is carried.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

R 28.616 Wheels.

Rule 16. Tank vehicles shall not be operated except on a minimum of 4 wheels; provided, however, that nothing in this rule shall prohibit the operation of a tank semitrailer.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

R 28.617 Static protection.

Rule 17. Cargo tanks and vehicle chassis shall be electrically bonded.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

R 28.618 Protection against accidental damage.

Rule 18. (1) Draw-off valves or faucets projecting beyond the frame at the rear of a tank vehicle shall be adequately protected against collision by bumpers or similar means.

(2) All closures for filling openings shall be protected from damage in the event of overturning of the tank vehicle, by being enclosed within the body of the tank or dome attached thereto or by the use of suitable metal guards securely attached to the tank or the frame of the motor vehicle. If the overturn protection is so constructed as to permit accumulation of liquid on the top of the tank, it shall be provided with drainage facilities which will provide a positive means to prevent such drainage from contacting the exhaust and electrical systems of the tank vehicle.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

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R 28.619 Lighting.

Rule 19. No lighting device other than electric lights shall be used on tank vehicles. Lighting circuits shall have suitable overcurrent protection (fuses or automatic circuit breakers). The wiring shall have sufficient carrying capacity and mechanical strength and shall be secured, insulated, and protected against physical damage in keeping with recognized good practice.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

R 28.620 Fuel system.

Rule 20. (1) Fuel tanks shall be so designed, constructed and installed as to present no unusual hazard and shall be so arranged as to vent during filling operations and permit drainage without removal from their mountings.

(2) All portions of the fuel-feed system including carburetor, pumps and all auxiliary mechanisms and connections shall be constructed and installed in a workmanlike manner and so constructed and located as to minimize the fire hazard with no readily combustible materials used therein and shall, except for diesel fuel connections, be well separated from the engine exhaust system. A pressure-release device shall be provided where necessary. The fuel-feed lines shall be made of materials not adversely affected by the fuel to be used or by other materials likely to be encountered, of adequate strength for their purpose, well secured to avoid chafing or undue vibration, having a readily accessible and reliable shut-off valve or stop-cock. Joints depending upon solder for mechanical strength and liquid tightness shall not be used in the fuel system at or near the engine or its accessories unless the solder has a melting point of not less than 340 degrees Fahrenheit, or unless a self-closing, thermally controlled valve set to operate at not exceeding 300 degrees Fahrenheit, or other equivalent automatic device, shall be installed in the fuel line on the fuel-tank side of such joint.

History: 1954 ACS 5, p. 13, Eff. Feb. 15, 1956.

R 28.621 Exhaust system.

Rule 21. (1) The exhaust system including muffler and exhaust line shall have ample clearance from the fuel system and combustible materials and shall not be exposed to leakage or spillage of product or accumulations of grease, oil or gasoline.

(2) The exhaust system, including all units, shall be constructed and installed in a workmanlike manner. A muffler cut-out shall not be used.

History: 1954 ACS 5, p. 14, Eff. Feb. 15, 1956.

R 28.622 Trailers and semitrailers.

Rule 22. (1) Trailers shall be firmly and securely attached to the vehicle drawing them in a manner conforming with recognized good practice.

(2) Each trailer and semitrailer shall be equipped with reliable brakes on all wheels and adequate provision shall be made for their efficient operation from the driver's seat of the vehicle drawing the trailer or semitrailer.

(3) Trailer connections shall be such as to prevent the towed vehicle from being deflected more than 6 inches from the path of the towing vehicle.

History: 1954 ACS 5, p. 14, Eff. Feb. 15, 1956.

R 28.622a Transportation; truck tractor pulling a semitrailer and trailer combination; flash point at or below 70 degrees Fahrenheit; vehicle requirements.

Rule 22a. (1) Notwithstanding R 28.634a(1), a truck tractor pulling a semitrailer and trailer combination shall not transport a flammable liquid, in bulk,

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which has a flash point at or below 70 degrees Fahrenheit within this state, unless the truck tractor, semitrailer, and trailer combination meet the following requirements:

(a) Are equipped with a device which restricts the horizontal and vertical rotation of the dolly assemblage of the vehicle combination in a manner which maintains the longitudinal tracking of the dolly and semitrailer.

(b) Are equipped with stops in the spring hangers of each semitrailer and trailer in the vehicle combination in a manner which improves the stability of the vehicle combination by reducing the free play of the leaf spring suspension to a maximum of ¾ inch when the spring passes from tension to compression.

(2) The device described in subrule (1)(b) shall be welded to the vehicle. The welds shall be in accordance with recognized good practice and the efficiency of a weld shall not be less than 85% of the mechanical properties of the adjacent metal in the chassis.

(3) This rule shall expire on November 1, 1981.

History: 1954 ACS 99, p. 11, Eff. May 10, 1979.

R 28.622b Transportation; truck pulling a trailer; flash point at or below 70 degrees Fahrenheit; vehicle requirements.

Rule 22b. (1) Notwithstanding R 28.634a(2), a truck pulling a trailer shall not transport a flammable liquid, in bulk, which has a flash point at or below 70 degrees Fahrenheit within this state, after November 1, 1978, unless the truck and trailer combination meets the following requirements:

(a) Are equipped with a device which restricts the horizontal and vertical rotation of the dolly assemblage of the vehicle combination in a manner which maintains the longitudinal tracking of the dolly and the truck.

(b) Are equipped with stops in the spring hangers of each semitrailer and trailer in the vehicle combination in a manner which improves the stability of the vehicle combination by reducing the free play of the leaf spring suspension to a maximum of ¾ inch when the spring passes from tension to compression.

(2) The device described in subrule (1)(a) shall be welded to the vehicle. The welds shall be in accordance with recognized good practice and the efficiency of a weld shall not be less than 85% of the mechanical properties of the adjacent metal in the chassis.

History: 1954 ACS 99, p. 11, Eff. May 10, 1979.

R 28.622c Transportation; flash point above 70 and below 200 degrees Fahrenheit; vehicle requirements.

Rule 22c. (1) A truck tractor pulling a semitrailer and trailer combination or a truck pulling a trailer shall not transport a flammable liquid, in bulk, which has a flash point above 70 degrees Fahrenheit and below 200 degrees Fahrenheit within this state, after November 1, 1981, unless the truck tractor, semitrailer, and trailer combination or truck and trailer combination meet the following requirements:

(a) Are equipped with a device which restricts the horizontal and vertical rotation of the dolly assemblage of the vehicle combination in a manner which maintains the longitudinal tracking of the dolly and semitrailer in a truck tractor, semitrailer, and trailer combination or the dolly and the truck in a truck and trailer combination.

(b) Are equipped with stops in the spring hangers of each semitrailer and trailer in the vehicle combination in a manner which improves the stability of the vehicle combination by reducing the free play of the leaf spring suspension to a maximum of ¾ inch when the spring passes from tension to compression.

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(2) The device described in subrule (1)(a) shall be welded to the vehicle. The welds shall be in accordance with recognized good practice and the efficiency of a weld shall not be less than 85% of the mechanical properties of the adjacent metal in the chassis.

History: 1954 ACS 99, p. 11, Eff. May 10, 1979.

R 28.622d Vehicle device; approval criteria prior to installation.

Rule 22d. Before a device manufactured to be installed on a vehicle combination described in R 28.622a, R 28.622b, or R 28.622c is installed, the manufacturer of the device shall submit the plans and specifications of the device to the state fire marshal. If the device is approved in writing by the state fire marshal, the device may be installed on a vehicle combination.

History: 1954 ACS 99, p. 12, Eff. May 10, 1979.

R 28.622e Approved device; manufacturer identification; notice of installation.

Rule 22e. (1) A manufacturer of a device approved under R 28.622d shall affix to the device a means of permanent identification, either by means of a stamp or an identification plate. The stamp or identification plate shall identify the manufacturer's name and a number designated by the manufacturer to distinguish the device from all other the manufacturer produces.

(2) If the manufacturer of a device approved under R 28.622d installs the device on a vehicle combination described in R 28.622a, R 28.622b, or R 28.622c, the manufacturer shall forward to the state fire marshal a notice of the installation, which notice shall include the following:

(a) The name of the manufacturer of the device.

(b) The number designated for the device by the manufacturer under subrule (1).

(c) The date of the installation of the device.

(d) The name of the owner of each of the vehicles in the vehicle combination on which the device was installed.

(3) If a person other than the manufacturer of the device installs a device approved under R 28.622d on a vehicle combination described in R 28.622a, R 28.622b, or R 28.622c, the person shall forward to the state fire marshal a notice of the installation, which notice shall include the following:

(a) The name of the manufacturer of the device.

(b) The number designated for the device by the manufacturer under subrule (1).

(c) The date of the installation of the device.

(d) The name of the owner of each of the vehicles in the vehicle combination on which the device was installed.

(e) A statement by the installer that the installation of the device was in accordance with the manufacturer's plans and specifications of the device submitted to the state fire marshal under R 28.622d.

History: 1954 ACS 99, p. 12, Eff. May 10, 1979.

R 28.623 Standard for installation of portable fire extinguishers.

Rule 23. (1) Each tank vehicle shall be provided with at least 1 portable fire extinguisher having at least a 20-B, C rating or when more than 1 is provided, each extinguisher shall have at least a 10-B, C rating. Ratings shall be in accordance with the 1970 edition of national fire protection association pamphlet no. 10, entitled "Standard for Installation of Portable Fire Extinguishers."

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(2) Fire extinguishers shall be kept in good operating condition at all times, and they shall be located in an accessible place on each tank vehicle.

History: 1954 ACS 5, p. 14, Eff. Feb. 15, 1956; 1954 ACS 35, p. 5, Eff. Aug. 14, 1963; 1954 ACS 74, p. 5, Eff. Mar. 8, 1973.

R 28.624 Auxiliary internal combustion engines.

Rule 24. (1) Internal combustion engines other than those providing propulsive power, installed or carried upon a tank vehicle transporting flammable liquids for the purpose of providing power for the operation of pumps or other devices, shall comply with this rule.

(2) The engine air intake shall be equipped with an effective flame arrester, or an air cleaner having effective flame arrester characteristics, substantially installed and capable of preventing emission of flame from the intake side of the engine in event of backfiring.

(3) The fuel system shall be so located or constructed as to minimize the fire hazard. If the fuel tank is located above or immediately adjacent to the engine, suitable shielding shall be provided to prevent spillage during the filling operation or leakage from the tank or fuel system from coming in contact with the engine or any parts of the ignition and exhaust systems. All parts of the fuel system shall be constructed and installed in a workmanlike manner.

(4) Pumps and other appurtenances carrying or containing flammable liquids shall be so located in relation to the engine that spillage or leakage from such parts shall be prevented from coming in contact with the engine or any parts of the ignition and exhaust system or adequate shielding shall be provided to attain the same purpose. The engine cooling fan shall be so positioned, rotated or shielded as to minimize the possibility of drawing flammable vapors toward the engine.

(5) When the engine is located in a position where spillage from the cargo tank or its appurtenances or from side racks might constitute a hazard, suitable shielding shall be provided to prevent such spillage from contacting the engine or engine exhaust system and for draining such spillage away from the vicinity of the engine.

(6) Where the engine is carried within an enclosed space adequate provision shall be made for air circulation at all times to prevent accumulation of explosive vapors and to avoid overheating.

(7) The exhaust system shall be substantially constructed and installed and free from leaks. The exhaust line and muffler shall have adequate clearance from combustible materials and the exhaust gases shall be discharged at a location which will not constitute a hazard. When engines are carried as in subrule (6), the exhaust gases shall be discharged outside of each such enclosed space.

(8) The ignition wiring shall be substantially installed with firm connections and spark plug and all other terminals shall be suitably insulated to prevent sparking in event of contact with conductive materials. The ignition switch shall be of an enclosed type.

(9) Internal combustion engines for tank vehicles used exclusively for class III flammable liquids are exempted from requirements of subrules (2) and (8) of this rule.

History: 1954 ACS 5, p. 14, Eff. Feb. 15, 1956.

R 28.625 Electrical equipment; auxiliary electric generators and motors.

Rule 25. (1) Electrical equipment installed or carried upon a tank vehicle transporting flammable liquids, for the operation of pumps or other devices used for the handling of flammable liquids, shall comply with this rule.

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(2) Electric generators driven from a power take-off connected to the vehicle transmission or to an auxiliary transmission or by an auxiliary internal combustion engine shall be of the explosionproof type.

(3) Electric motors shall be of the explosionproof type.

(4) Wiring shall be adequate and substantially installed with all terminals firmly connected and insulated to prevent sparking from vibration or in event of contact with conductive materials. Wires shall have oilproof insulation. If overload protection is provided it shall be of the explosionproof type. All switches or other sparking devices shall be of the explosionproof type and all conduit entrances shall be sealed.

(5) Where the generator or motor is located within an enclosed space, adequate provision shall be made for air circulation to prevent overheating and possible accumulation of explosive vapors.

(6) Electrical equipment and wiring shall be located so as to prevent contact with spillage from cargo tank.

(7) Electrical equipment installed or carried upon a tank vehicle for the operation of pumps or other devices used exclusively for handling of class III flammable liquids is exempted from requirements as to being explosionproof type.

History: 1954 ACS 5, p. 15, Eff. Feb. 15, 1956.

R 28.626 Marking of tank vehicles, faucets, and buckets.

Rule 26. (1) Every tank vehicle used for the transportation of any flammable liquid regardless of the quantity being transported or whether loaded or empty shall be conspicuously and legibly marked on each side and the rear thereof in letters at least 3 inches high on a background of sharply contrasting color, optionally as follows:

(a) With a sign or lettering on the tank vehicle with the word "FLAMMABLE."; or

(b) With the common name of the flammable liquid being transported; or

(c) With the name of the carrier or his trademark when and only when such name or mark clearly indicates the flammable nature of the cargo.

(2) All discharge faucets on tank vehicles hauling 2 or more classes of flammable liquids shall be marked to clearly designate the contents of the compartment to which they are connected.

(3) Containers filled or sold containing gasoline, benzine or naphtha shall be painted vermilion bright red and shall be lettered or labeled with the word "GASOLINE," "BENZINE" or "NAPHTHA." No kerosene shall be put into or sold in a container painted vermilion bright red as provided in Act No. 37 of the Public Acts of 1909, known as the "Red Can Act."

History: 1954 ACS 5, p. 15, Eff. Feb. 15, 1956.

R 28.627 Condition of tank vehicles.

Rule 27. Tank vehicles shall not be operated unless they are in proper repair, devoid of accumulation of grease, oil or other flammables and free of leaks.

History: 1954 ACS 5, p. 15, Eff. Feb. 15, 1956.

R 28.628 Filling and discharging tank vehicles.

Rule 28. (1) The driver, operator or attendant of any tank vehicle shall not leave the vehicle while it is being filled or discharged. Delivery hose, when attached to a tank vehicle shall be considered to be part of the tank vehicle.

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When delivering to an underground storage tank, the driver, operator or attendant of any tank vehicle shall be outside of the vehicle and shall not be further than 5 feet from the vehicle or the delivery hose(s) of the vehicle, and shall keep the point of filling under constant supervision and observation during such delivery.

(2) Motors of tank trucks or tractors shall be shut down during filling at loading racks. Tank truck or tractor motors or auxiliary motors shall not be used for filling a cargo tank or transferring flammable liquids from one compartment to another except in an emergency. Motors shall be shut down during making or breaking hose connections. If unloading is done without the use of the tank truck or tractor motor, such motors shall be shut down throughout the unloading operations.

(3) The cargo tank shall be bonded to the fill pipe when loading. The bond-wire connection shall be made prior to opening the dome covers. It shall be maintained in place during the entire filling operation and the dome covers shall be securely closed before the bond-wire is disconnected from the cargo tank.

(4) In every cargo tank or compartment sufficient space shall be left vacant to prevent leakage or distortion by expansion of the contents due to rise in temperature in transit. No cargo tank or compartment shall be loaded to a volume in excess of 99% of its total capacity.

(5) Tank vehicles shall not be filled from tank cars or boats.

(6) Flammable liquids shall not be handled by bucket in any location where there is an open flame or other source of ignition.

(7) To prevent static sparks, metallic contact shall be maintained between faucet and bucket during filling of bucket and between bucket and container during pouring from bucket.

(8) During the filling of fuel tanks of power equipment or vehicles, except fire apparatus in use at a fire, the motors of such equipment or vehicles shall be stopped.

(9) Simultaneous delivery to underground tanks from 2 or more hoses shall be made by liquid tight connections between the hose and the fill pipe. When any storage tank fill pipe and the tank vehicle are equipped with compatible connections for tight fill, the tight fill connection shall be made on all deliveries.

History: 1954 ACS 5, p. 16, Eff. Feb. 15, 1956; 1954 ACS 35, p. 5, Eff. Aug. 14, 1963.

R 28.629 Smoking prohibited.

Rule 29. Smoking in, on or within 15 feet of any tank vehicle is prohibited at all times. This shall apply to anyone driving the vehicle, making deliveries, filling or making any repairs to any tank vehicle, or any other person while loading or unloading.

History: 1954 ACS 5, p. 16, Eff. Feb. 15, 1956.

R 28.630 Caution near fire.

Rule 30. Delivery of flammable liquids from tank vehicles shall not be made when there are open fires or flames in dangerous proximity.

History: 1954 ACS 5, p. 16, Eff. Feb. 15, 1956.

R 28.631 Dome covers.

Rule 31. (1) Manholes or dome covers shall be fitted with gaskets or otherwise made liquid tight and shall be firmly held in a closed position while the tank vehicle is in transit.

(2) During filling operations, dome covers of compartments not being filled shall be kept closed.

History: 1954 ACS 5, p. 16, Eff. Feb. 15, 1956.

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R 28.632 Protection against inter-mixing.

Rule 32. (1) No tank vehicles, or any compartment thereof, which has been utilized for class I or class II flammable liquid, shall be loaded with class III flammable liquid until such tank or compartment and all piping, and hose connected thereto have been completely drained. A tank, compartment, piping, or hose which does not drain completely or which is equipped with a pump or meter shall be flushed with a quantity of class III flammable liquid equal to twice the capacity of piping, pump, meter, and hose, to clear any residue of class I or class II flammable liquid from the system. Such flushing shall be done at the truck terminal where approvable facilities and equipment are available or at the point of loading and not during the course of field deliveries.

(2) Tank vehicles transporting class I or II flammable liquids in 1 or more compartments and class III flammable liquids in other compartment or compartments , shall be equipped with separate piping, pumps, meters and hoses for such classes of product. Vehicles now in service shall comply within 1 year from the date of the adoption of these regulations.

History: 1954 ACS 5, p. 16, Eff. Feb. 15, 1956; 1954 ACS 35, p. 5, Eff. Aug. 14, 1963.

R 28.633 Leakage from tank vehicle.

Rule 33. (1) In the event of leakage of flammable liquids from any tank vehicle, which develops or is discovered after the commencement of transportation, any 1 of the following means or any means equally effective shall be employed in order to minimize further hazard.

(2) Transport the tank vehicle only the minimum distance to reach a place where the contents of the tank or compartment which is leaking may be disposed of with safety, meanwhile employing every available means to prevent the leakage or spillage of flammable liquids upon the highway.

(3) In the event the leak is of such a character as to make further transportation of the tank vehicle unsafe, to draw off the traveled portion of the highway and to employ available means for the safe disposal of the leaking liquid, preventing, so far as practicable, its spread over a wide area; by digging trenches to drain to a hole or depression in the ground; by diverting the liquid away from streams and sewers if possible, unless under the direction of the local fire departments, or by catching the liquid in containers if practicable.

(4) So far as practicable, every available means shall be employed to prevent the congregation of spectators and to prevent smoking. Fires or flames in the vicinity of the leaking tank shall be extinguished.

History: 1954 ACS 5, p. 16, Eff. Feb. 15, 1956.

R 28.634 Prohibited deliveries and transfers.

Rule 34. (1) No class I or II flammable liquids shall be transferred from tank vehicles to containers on any highway, road, street, or alley.

(2) No class I or II flammable liquids shall be transferred from tank vehicles to the fuel tanks of motor vehicles or marine craft at any location.

(3) No class I or II flammable liquids shall be transferred from one tank vehicle to another tank vehicle at any location.

(4) Subrules (1), (2), and (3) shall be subject to the following specific exceptions:

(a) In case of emergency provided all practicable means shall be taken to protect and warn against the hazards involved in such transfer or the emergency *making* such transfer necessary.

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(b) Fueling machinery or vehicles used in construction or road maintenance at the site of use, subject to the approval as to location by the local authority having jurisdiction and may be subject to the approval of the commissioner.

(c) Fueling fire apparatus or vehicles or equipment used by the armed services of the United States.

(d) Fueling operations for special events under the direction and with the written approval of local fire authorities having jurisdiction.

(e) Transfer from one tank vehicle to another tank vehicle at a bulk plant.

(5) Motors of machinery or vehicles, excepting fire apparatus in use at a fire, shall be shut down during refueling.

(6) No container shall be filled with flammable liquid while inside a passenger-carrying vehicle. Containers shall be removed from the interior of passenger cars and from the cab or enclosed portion of other vehicles during filling.

History: 1954 ACS 5, p. 17, Eff. Feb. 15, 1956; 1954 ACS 35, p. 5, Eff. Aug. 14, 1963.

R 28.634a Transportation; time; place; quantity.

Rule 34a. (1) A truck tractor pulling a semitrailer and trailer combination shall not transport, except between the hours of midnight to 6 a.m. and on the routes specified in R 28.634b, a flammable liquid, in bulk, which has a flash point at or below 70 degrees Fahrenheit within a county having a population of 600,000 or more.

(2) A truck, a truck pulling a trailer, or a truck tractor pulling a semitrailer shall not transport, except between the hours of midnight to 6 a.m. and on the routes specified in R 28.634b, a flammable liquid, in bulk, which has a flash point at or below 70 degrees Fahrenheit in a quantity of more than 9,000 gallons within a county having a population of 600,000 or more.

(3) The vehicles and vehicle combination specified in subrules (1) and (2) may transport the flammable liquids described in those subrules only for the purposes of picking up or delivering those flammable liquids at a supply depot located on a route specified in R 28.634b.

(4) This rule shall expire on November 1, 1981.

History: 1954 ACS 99, p. 12, Eff. May 10, 1979.

R 28.634b Transportation; routes.

Rule 34b. The following are the only routes on which the flammable liquids described in R 28.634a may be transported by the vehicles specified in R 28.634a.

(a) The following highways located within Macomb, Oakland, and Wayne counties are designated routes, except for those portions on which the transportation of a flammable liquid which has a flash point at or below 70 degrees Fahrenheit is prohibited by law effective on August 1, 1978:

(i) Interstate—75
(ii) Interstate—94
(iii) Interstate—96
(iv) Interstate—275
(v) Interstate—375
(vi) Interstate—696
(vii) U.S. 10
(viii) M-39
(ix) M-59
(x) Davison expressway

(b) The exit and entrance ramps of interstate-94 at the Middlebelt road interchange, then south on Middlebelt road to Wick road, and then east to the supply depots located at 28432 Wick road or 29120 Wick road.

(c) The exit and entrance ramps of interstate-75 at the Holbrook avenue interchange, then east on Holbrook avenue to the supply depot located at 3884 Holbrook avenue.

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(d) The exit and entrance ramps of interstate-94 at the Wyoming avenue interchange, then north on Wyoming avenue to Ford road, and then west to the supply depot located at 10500 Ford road.

(e) The exit and entrance ramps of interstate-75 at the Schaefer road interchange, then southeast on Schaefer road to Jefferson avenue, then north to Marion, and then east to the supply depot located at 210 Marion.

(f) The exit and entrance ramps of interstate-75 at the Schaefer highway interchange, then north on Schaefer road to Oakwood boulevard, then west on Oakwood boulevard to south Dix avenue, and then north to the supply depot located at 500 south Dix avenue.

(g) The exit and entrance ramps of interstate-94 at the Oakwood boulevard interchange, then east on Oakwood boulevard to south Dix avenue, then north to the supply depot located at 500 south Dix avenue.

(h) The exit and entrance ramps of interstate-94 at the Ecorse road interchange, then west on Ecorse road to Inkster road, then south on Inkster road to Citrin drive, and then west to the supply depot located at 28001 Citrin drive.

(i) The exit and entrance ramps of interstate-94 at the Ecorse road interchange, then west on Ecorse road to Inkster road, and then south to the supply depots located at 7155 Inkster road or 8625 Inkster road.

(j) The exit and entrance ramps of interstate-94 at the Ecorse road interchange, then east on Ecorse road to Holland road, and then south to the supply depot located at 7965 Holland road.

(k) The exit and entrance ramps of interstate-75 at the West road interchange, and then east to the supply depot located at 20089 West road.

(l) The exit and entrance ramps of interstate-94 at the Ecorse road interchange, then east on Ecorse road to south Beech-Daly road, and then south to the supply depot located at 8000 south Beech-Daly road or 8300 south Beech-Daly road.

(m) The exit and entrance ramps of interstate-94 at the Ecorse road interchange, then east to the supply depots located at 22970 Ecorse road, 24501 Ecorse road, or 24801 Ecorse road.

(n) The exit and entrance ramps of interstate-94 at the Wyoming avenue interchange, and then north to the supply depot at 6011 Wyoming avenue.

(o) The exit and entrance ramps of interstate-94 at the Dequindre road interchange, then south on Dequindre road to Commor street, and then west to the supply depot located at 1530 Commor street.

(p) The exit and entrance ramps of interstate-96 at the Novi road interchange, then south on Novi road to Grand River avenue and then east to the supply depot located at 40600 Grand River avenue.

(q) Thirty-two mile road from the St. Clair-Macomb county line west to the supply depots located at 37530 32-mile road or 37401 32-mile road.

(r) The exit and entrance ramps of interstate-75 at the Schaefer road interchange, then southeast on Schaefer road to Fort street, then northeast on Fort street to Toronto avenue, then west to the supply depot located at 12800 Toronto avenue.

(s) The exit and entrance ramps of interstate-75 at the Fort street interchange, then northeast on Fort street to Toronto avenue, then west to the supply depot located at 12800 Toronto avenue.

(t) The exit and entrance ramps of interstate-94 at the M-19 interchange, then north on M-19 to 32-mile road, then east on 32-mile road to the supply depots located at 37401 32-mile road and 37530 32-mile road.

(u) The exit and entrance ramps of interstate-75 at the Schaefer road interchange, then southeast on Schaefer road to Fort street, then northeast on Fort

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street to Pleasant street, then southeast to Deacon street, then northeast to the supply depot located at 700 south Deacon street.

(v) The exit and entrance ramps of interstate-94 at the Schaefer road interchange, then southeast on Schaefer road to Fort street, then northeast on Fort street to Pleasant street, then southeast to Deacon street, then northeast to the supply depot located at 700 south Deacon street.

(w) The exit and entrance ramps of interstate-94 at the 26-mile road interchange, then east on 26-mile road to the Macomb-St. Clair county line.

(x) On M-19 south from the Macomb-St. Clair county line to 32-mile road, then east on 32-mile road to the supply depots located at 37401 32-mile road or 37530 32-mile road.

(y) The exit ramps of westbound interstate-94 at the Addison street exit, then north on Addison street to McGraw avenue, then west on McGraw avenue to Wyoming avenue, then north on Wyoming avenue to the supply depot located at 6011 Wyoming avenue.

(z) From the supply depot located at 6011 Wyoming avenue, then south to McGraw avenue, then east on McGraw avenue to Weir, then south to the entrance ramp to eastbound interstate-94.

(aa) The exit ramp of interstate-75 at the Schaefer road interchange, then southeast on Schaefer road to Fort street, then southwest on Fort street to the turning loop at northeastbound Fort street. Northeast on Fort street to the turning loop at Northhampton, then southwest on Fort street to Toronto avenue, then northwest on Toronto avenue to 12800 Toronto avenue.

(bb) From 12800 Toronto avenue, then southeast to Fort street, then southwest on Fort street to the turning loop to northeastbound Fort street, then northeast on Fort street to the entrance ramp to interstate-75.

(cc) The exit and entrance ramps of interstate-94 at the Middlebelt interchange, then south to Wick road, then east to Beech-Daly road, then north on Beech-Daly road to the supply depot located at 3800 Beech-Daly road and 8000 Beech-Daly road.

(dd) The exit and entrance ramps of interstate-75 at M-24 in Oakland county, then north on M-24 to the Oakland-Lapeer county line.

(ee) The exit and entrance ramps of interstate-94 at M-19, then north on M-19 to the Macomb-St. Clair county line.

(ff) The exit and entrance ramps of interstate-94 at the 21-mile road interchange, then east on 21-mile road to Jefferson avenue, then south on Jefferson avenue to the supply depot located at Selfridge air force base.

History: 1954 ACS 99, p. 13, Eff. May 10, 1979.

R 28.635 Repairs to cargo tanks of tank vehicles.

Rule 35. Repairs or maintenance which either require the use of heat or produce heat in the process, shall not be made to any cargo tank unless such tank has been completely drained and made gas free by a method prescribed in American petroleum institute accident prevention manual no. 13 of March, 1951, or by some other equally effective method.

History: 1954 ACS 5, p. 17, Eff. Feb. 15, 1956.

CONTAINERS

R 28.636 Containers for transportation.

Rule 36. (1) Containers for transportation of flammable liquids shall be of substantial construction or be substantially packed so they will not be readily

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broken or punctured in transportation or handling. Containers shall be of sound metal construction, having a tight closure with screwed or spring cover, except that:

(a) Suitable plastic or glass containers having an individual capacity of not more than 1 pint may be used for flammable liquids.

(b) Suitable plastic or glass containers having an individual capacity of not more than 1 gallon may be used for medicines, beverages, foodstuff, and toiletries that are flammable liquids.

(c) Suitable plastic or glass containers having an individual capacity of not more than 1 gallon may be used for flammable liquids whose chemical purity would be contaminated by metal containers.

(2) Containers for flammable liquids being transported either full or empty shall be tightly closed to prevent the escape of liquid or vapor.

(3) No container or containers holding in excess of 6 gallons total capacity of class I and/or class II flammable liquids shall be carried in passenger vehicles or in commercial vehicles if carrying passengers in the same portion of the vehicle as the flammable liquid container.

(4) Whenever any flammable liquid is escaping from a container, all practical means shall be taken to prevent such liquid from spreading over a wide area, from flowing into sewers and streams and from becoming ignited.

(5) Precautions similar to those outlined in R 28.633 for leaking truck tanks insofar as applicable, shall be taken for the disposition of any leaking container or its contents.

(6) Containers filled or sold containing gasoline, benzine or naphtha shall be painted vermilion bright red and shall be lettered or labeled with the word "GASOLINE," "BENZINE" or "NAPHTHA." No kerosene shall be put into or sold in a container painted vermilion bright red as provided in Act No. 37 of the Public Acts of 1909, known as the "Red Can Act."

(7) Containers for flammable liquids other than gasoline, benzine, or naphtha shall be clearly marked with the name of the product contained therein and in conformity with the labeling standards of the national fire protection association pamphlet no. 326 of 1951, entitled "Warning Labels for Containers of Flammable Liquids."

(8) No person shall place class III flammable liquids in a container which has previously contained class I or II flammable liquids unless such container has been thoroughly cleaned of such class I or II flammable liquid. If washing or some equally satisfactory method is not employed, the container should be flushed with sufficient class III flammable liquid to wash out any residue of class I or II flammable liquids and the container should then be completely filled with the class III flammable liquid.

History: 1954 ACS 5, p. 17, Eff. Feb. 15, 1956; 1954 ACS 35, p. 6, Eff. Aug. 14, 1963.

R 28.637 I.C.C. shipment exempt.

Rule 37. Nothing in this division shall be construed to prevent any shipment made in accordance with the interstate commerce commission regulations.

History: 1954 ACS 5, p. 18, Eff. Feb. 15, 1956.

R 28.638 Parking and garaging.

Rule 38. (1) No tank vehicle shall be left unattended on any street, highway, avenue or alley, provided that this shall not prevent a driver from the necessary absence from the truck in connection with the delivery of his load, except that during actual discharge of the liquid some responsible person shall be present at

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the vehicle, nor shall it prevent stops for meals or conduct of business during the day or night if the street is well lighted at the point of parking and where such parking is permitted under the local ordinances.

(2) Tank vehicles containing flammable liquids or vapors shall not be parked out of doors at any 1 point for longer than 1 hour, except off the streets and at least 25 feet from any public assembly, institutional or residence building.

(3) Tank vehicles shall not be parked or garaged in any buildings other than those specifically approved for such use at the bulk plant or truck terminal except that this shall not be construed to prohibit servicing of such tank vehicles in garages.

History: 1954 ACS 5, p. 18, Eff. Feb. 15, 1956.

DIVISION II

STORAGE OF FLAMMABLE LIQUIDS

R 28.639 Application.

Rule 39. (1) No person shall store any flammable liquids in the state of Michigan except in compliance with this division unless such storage is permitted otherwise elsewhere in these regulations.

(2) R 28.640 to R 28.654 shall apply to the storage of flammable liquids above ground.

(3) R 28.655 to R 28.663 shall apply to the storage of flammable liquids underground, enclosed and inside buildings.

History: 1954 ACS 5, p. 18, Eff. Feb. 15, 1956.

ABOVE GROUND STORAGE

R 28.640 Applies to over 100 gallons.

Rule 40. Any above ground storage of flammable liquids in individual containers or tanks of greater than 100 gallons capacity each shall conform to the provisions of this division unless the storage is permitted otherwise by an applicable division.

History: 1954 ACS 5, p. 18, Eff. Feb. 15, 1956.

R 28.641 Plans, specifications, and permit required.

Rule 41. (1) A complete set of plans and specifications for any proposed installation of or addition to a present installation of above ground storage tanks having a total capacity exceeding 1,000 gallons of class I and II flammable liquids or exceeding 10,000 gallons of class III flammable liquids shall be submitted in duplicate to the commissioner. If plans and specifications conform to these regulations and comply with local ordinances, and permission has been granted by the local authorities, approval will be granted by the commissioner for such installation or addition which will expire 1 year from date of issuance.

(2) When the addition or installation is completed, the owner shall notify the commissioner and an inspection shall be made to determine if the installation or addition complies with these rules.

(3) Nothing contained in subrule (1) of this rule shall exempt the owner of a proposed flammable liquids installation consisting of less than 1,000 gallons of class I and II flammable liquids, or of a proposed installation of less than 10,000 gallons of class III flammable liquids from complying with all other rules of these regulations or from complying with applicable local ordinances.

History: 1954 ACS 5, p. 19, Eff. Feb. 15, 1956.

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R 28.642 Restricted locations.

Rule 42. (1) Except as elsewhere provided in these rules all above ground storage shall be located outside buildings.

(2) No storage tank shall hereafter be erected less than 300 feet away from any mine shaft, air or escape shaft for any mine, any school, church, hospital, theater or public hall, a public hall being any place which is regularly used for public meetings or assembling of people for amusement, instruction or religious worship.

(3) Nothing in this rule shall prevent alterations or additions to existing plants already storing flammable liquids providing such alterations or additions are in compliance with these regulations.

(4) No above ground tank(s) or loading operations shall be installed closer than 25 feet plus 1 inch per 1,000 volts, measured horizontally, from the center line of electric power lines, nor under electric power lines, except that service entrance and service lines may be closer than 25 feet but not over the tanks or loading area. This subrule shall not apply to fuel oil tanks up to 275 gallons individual capacity or 550 gallons aggregate capacity used for heating purposes.

(5) No above ground storage tank for class III flammable liquids used in connection with or connected by piping to heating or power devices shall exceed 275 gallons individual capacity or 550 gallons aggregate capacity.

(6) Nothing contained in subrule (5) shall prohibit installation of a tank with capacity of more than 275 gallons, provided it is installed in accordance with the provisions of division II, above ground storage.

History: 1954 ACS 5, p. 19, Eff. Feb. 15, 1956.

R 28.643 Distances to property lines and buildings.

Rule 43. (1) The minimum distance from a tank for the storage of flammable liquids other than crude petroleum having a capacity of 50,000 gallons or less to the line of adjoining property, which is built upon or may be built upon, shall depend upon the capacity of the tank as shown in the following table:

Capacity of Tank	Class of Flammable Liquid	Minimum Distance
101 to 275 gallons	III	0 feet
276 to 750 gallons	III	5 feet
61 to 750 gallons	I and II	10 feet
751 to 12,000 gallons	III	10 feet
751 to 12,000 gallons	I and II	15 feet
12,001 to 24,000 gallons	I, II, and III	15 feet
24,001 to 30,000 gallons	I, II, and III	20 feet
30,001 to 50,000 gallons	I, II, and III	25 feet

(2) Above ground tanks for flammable liquids other than crude petroleum with capacities in excess of 50,000 gallons, when equipped with an approved floating roof or an approved permanently attached extinguishing system shall be so located that the distance from the shell of the tank to a line of adjoining property that is or may be built upon shall not be less than the greatest dimension of diameter or height of the tank, except that such distance need not exceed 120 feet.

(3) Above ground tanks for flammable liquids other than crude petroleum with a capacity in excess of 50,000 gallons without an approved floating roof and not equipped with an approved permanently attached extinguishing system shall be so located that the distance from the shell of the tank to a line of adjoining

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property that is or may be built upon shall be at least 1½ times the greatest dimension of diameter or height of the tank, except that such distance need not exceed 175 feet.

(4) Above ground tanks for crude petroleum shall be located at least twice the distance from property lines that are or may be built upon as required for other flammable liquids in subrules (1), (2), and (3) of this rule.

(5) These distances shall also apply between tanks and buildings or structures on the property, except those necessarily connected with the installation, such as a pumphouse.

(6) Above ground tanks shall be located not nearer than 10 feet or ¼ the distance, specified in subrules (1), (2), (3), and (4) of this rule, whichever is greater, to highways, streets or railway lines other than switch tracks, provided, however, that the total distance between the shell of any tank and the line of any other property that is or may be built upon shall not be less than required by subrules (1), (2), (3), and (4) of this rule.

History: 1954 ACS 5, p. 19, Eff. Feb. 15, 1956.

R 28.644 Spacing between tanks.

Rule 44. (1) The location of a tank having a capacity of over 275 gallons for the storage of any flammable liquid with respect to any such other tank shall be such that the distance between them shall be not less than 3 feet.

(2) For tanks above 50,000 gallons individual capacity storing any flammable liquid other than crude petroleum in producing areas, the distance between tanks shall be not less than ½ the diameter of the smaller tank, except that such distance shall not be less than 10 feet.

(3) For tanks storing crude petroleum above 126,000 gallons (3,000 bbls.) individual capacity, the distance between tanks shall be not less than the diameter of the smaller tank.

(4) The minimum separation between a liquefied petroleum gas container and a flammable or combustible liquid storage tank shall be 20 feet. Diversion curbs, grading, or other means shall be used to prevent the accumulation of flammable or combustible liquids under adjacent liquefied petroleum gas containers. When a flammable or combustible liquid storage tank is within a diked area, a liquefied petroleum gas container shall be outside the diked area and at least 10 feet away from the center line of the wall of the diked area. The foregoing provisions shall not apply when liquefied petroleum gas containers of 125 gallons or less capacity are installed adjacent to 1 or more fuel oil supply tanks of 550 gallons or less capacity.

History: 1954 ACS 5, p. 20, Eff. Feb. 15, 1956; 1954 ACS 27, p. 5, Eff. Aug. 14, 1961; 1954 ACS 74, p. 5, Eff. Mar. 8, 1973.

R 28.645 Foundations and supports.

Rule 45. (1) All tanks shall have a firm, noncombustible foundation. Tanks placed above the level of the ground, except tanks having an individual capacity of 275 gallons or less for the storage of class III flammable liquids, shall have supports and saddles of poured reinforced concrete, masonry, or protected steel. Steel shall be protected by fire-resistive materials having a rating of not less than 2 hours which shall be adequately waterproofed. Steel cross guys shall be similarly protected unless masonry or concrete piers or columns and beams provide adequate stability. The owner shall provide engineering certification of stability if required. Steel saddles on concrete or masonry piers or beams not exceeding 6

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inches in height at the nearest point between the tank shell and such pier or beam, at existing installations, shall not require fireproofing.

(2) The commissioner may specify additional precautions which must be taken to protect a tank to be located in an area subject to flooding.

(3) Tanks other than those provided for in division III, for temporary use such as to provide fueling for machinery or vehicles used in construction and earth moving projects, shall be designed, installed, and used in accordance with these regulations, subject to the following provisions:

(a) They shall be located remote from buildings and areas used by the public and shall be subject to approval as to location by the local authority having jurisdiction and may be subject to approval of the commissioner.

(b) If they are to be used at a given general location for a temporary period not to exceed 6 months, they need not have masonry or protected steel foundations or saddles, but shall have adequate ferrous metal supports consisting of attached metal legs resting on skids or runners to be at least 1 tank diameter apart, which rest upon the ground, designed so that the tank is supported in a stable position with the outside bottom of the tank shell not more than 24 inches above the surface of the ground, and so that the entire tank and its supports may be moved as a unit.

(c) Tanks shall be designed and equipped to prevent the discharge of product in the event of damage to dispensing lines or hoses. Alternate methods as follows may be used:

(i) All openings shall be in the top of the tank with dispensing by internal or external pump. An anti-siphoning device shall be installed on any line extending below the liquid level.

(ii) A pump suction line may enter the end of the tank below the liquid level provided it is protected by an internal emergency valve equipped with a manual and thermal release device; the pump shall be securely attached to the tank or skids; and the discharge from the pump shall be through a spring loaded valve which will remain closed until discharge pressure is 3 p.s.i. or more.

(d) Pumps may be operated manually, or by electrical equipment complying with R 28.686(a), (b), and (c), or by internal combustion engines complying with the applicable provisions of R 28.624.

(e) When tanks are not permanently located on masonry foundations, piping connections shall be sufficiently flexible to minimize possibility of breakage or leakage of connections if tank settles, moves, or is otherwise displaced.

History: 1954 ACS 5, p. 20, Eff. Feb. 15, 1956; 1954 ACS 35, p. 6, Eff. Aug. 14, 1963.

R 28.646 Stairs, platforms, and walkways.

Rule 46. Stairways to and walks on top of tanks may be of wood, metal, or concrete construction as approved by the commissioner.

History: 1954 ACS 5, p. 20, Eff. Feb. 15, 1956.

R 28.647 Dikes.

Rule 47. (1) A tank or group of tanks containing crude petroleum shall be diked or other approved means taken to prevent discharge of liquid from endangering adjoining property or reaching waterways. The capacity of such dike or other approved means shall be not less than 125% of the tank or tanks.

(2) Tanks containing flammable liquids installed on the bank of a river, or other stream, or on sloping ground exposing property below, or any tank containing

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flammable liquids not subject to boil over, of a capacity of 50,000 gallons or more in a single tank, shall be diked or other approved means shall be provided to prevent discharge of liquid from reaching waterways or adjoining property.

(3) Dikes or other approved means shall be provided for any tank or tanks when deemed necessary by the commissioner for the protection of life and property because of topography or where, for unusual reasons, an extreme hazard is created by such tank storage or due to any other special conditions.

(4) Where an enclosure by dikes or other approved means are required under this rule, capacity of enclosure shall be equal, after settlement if constructed of earth, to 100% of the capacity of the largest tank plus 25% of the capacity of all other tanks served by the enclosure. Tanks at waterfront shall be provided with dike capacity of 100% of all tanks. Where a dike serving a group of tanks would confine escaping liquid around several tanks, cross dikes shall be provided to limit any one area, except around a single tank, to not more than 10,000 square feet. Cross dikes shall also be provided for any individual tank exceeding 210,000 gallons capacity. The height of such cross dikes shall not be less than 50% of the height of the dikes surrounding the entire group.

(5) All dikes shall be continuous with no openings for piping or roadway. This subrule shall not be interpreted to prohibit piping from running through a dike when the piping is solidly embedded in the dike.

(6) No building shall be located within a diked area.

(7) No provisions shall be made for the automatic draining of a diked area. Liquids shall be removed from within a dike by means of a siphon or a pump approved for use in hazardous locations only. Nothing in this rule shall be construed to prevent natural seepage or evaporation.

(8) Dikes when required by this rule shall be preferably of earth, or may be of poured reinforced concrete designed to be liquid-tight and to withstand a full hydraulic head and so constructed as to provide the required protection.

(a) Earthen dikes shall be firmly and compactly built of good earth from which stones, vegetable matter and other foreign materials have been removed. Earthen dikes 3 feet or more in height shall have a flat section at the top not less than 2 feet wide. The slope shall be consistent with the angle of repose of the material of which the dikes are constructed. Earthen dikes shall be no higher than ½ the height of the tank or tanks enclosed. The distance from any tank to the inside wall of a dike shall be equal to at least ¼ the height of the tank, except that tanks containing liquid that is subject to boil-over shall be not less than 50 feet from a dike.

(b) Poured reinforced concrete dikes shall be liquid-tight, properly reinforced, and constructed on footings below the frost line. Concrete dikes shall be provided with approved expansion joints. Dikes shall not be more than 6 feet in height. The distance from any tank to the inside wall of a dike shall be equal to at least ¼ the height of such tank.

History: 1954 ACS 5, p. 20, Eff. Feb. 15, 1956.

R 28.648 Design and construction of tanks.

Rule 48. (1) No open tanks shall be used for the storage of flammable liquids.

(2) Tanks shall be built of steel or concrete unless character of liquid stored requires other materials. Steel commonly known as "mill seconds" shall not be used. Tanks built of materials other than steel or concrete shall be designed to specifications embodying safety factors equivalent to those herein specified for steel tanks.

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(3) Concrete tanks shall be built in accordance with sound engineering practice. For general requirements, reference should be made to the standards for the design and construction of concrete fuel oil storage tanks (national fire protection association pamphlet no. 30D—1922). Such unlined concrete tanks shall only be used for storage of fuel oil having a gravity of 40 degrees American petroleum institute or heavier. Concrete tanks with special linings may be used for other services provided the design is approved by the commissioner.

(4) Vertical tanks erected in the field shall be built in accordance with American petroleum institute standard no. 12A, 7th edition, March, 1941, entitled "Specification for Standard Tanks with Riveted Shells for Oil Storage," or American petroleum institute standard no. 12C, 11th edition, October, 1952, entitled "Specifications for Welded Oil Storage Tanks."

(5) Vertical tanks erected in the field not exceeding 126,000 gallons (3,000 bbls.) individual capacity when used for crude petroleum storage in oil producing areas, may be built in accordance with American petroleum institute standard no. 12B, 5th edition, September, 1944, entitled "Specification for Standard Bolted Tanks," and standard 12D, 3rd edition, September, 1944, entitled "Welded Production Tanks," and supplement no. 2, August, 1947, thereto.

(6) Shop built vertical tanks not over 1,100 gallons capacity shall meet the following standards:

Capacity (gallons)	Minimum thickness of steel U.S. standard
1 - 60	18 gauge
61 - 350	16 gauge
351 - 560	14 gauge
561 - 1,100	12 gauge

(7) Shop built vertical tanks over 1,100 gallons capacity shall meet the following standards:

(a) For tanks up to 25 feet in height, the shell shall be not less than 3/16 inch thick. For tanks from 25 to 30 feet high, the bottom ring shall be not less than 1/4 inch thick and the remainder of the shell not less than 3/16 inch thick. For tanks between 30 and 35 feet high, the first 2 rings shall be not less than 1/4 inch thick and the remainder of the shell not less than 3/16 inch thick. All 1/4-inch thick rings shall be not less than 5 feet wide.

(b) The tops of tanks shall be either dished or cone-shaped and of not less than no. 10 U.S. standard gauge steel.

(c) Tanks shall be welded, or riveted and caulked, or otherwise made tight in a workmanlike manner. The roof of the tanks shall be securely fastened to the top ring of the shell with a joint having the same tightness as the joints between rings. The joint between roof and shell shall be weaker than any other joints in the shell of the tank. Joints in the roof shall be welded or riveted or made tight by other process satisfactory to the commissioner. Roofs of tanks shall have no unprotected openings.

(8) Shop built horizontal tanks shall be constructed in accordance with accepted engineering practice and shall meet the following minimum requirements: Joints shall be riveted and caulked, riveted and welded, or welded. Tank heads over 6 feet in diameter shall be dished, stayed, braced or reinforced.

(a) Shop built horizontal tanks not over 1,100 gallons capacity shall meet the following standards:

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Capacity (gallons)	Minimum thickness of steel U.S. standard
1 - 60	18 gauge
61 - 275	14 gauge
276 - 550	12 gauge
551 - 1,100	10 gauge

(b) Shop built horizontal tanks over 1,100 gallons capacity having a diameter of not over 6 feet made of steel shall be 3/16 inch or greater nominal thickness. Tanks having a diameter of over 6 feet and not more than 12 feet, made of steel shall be 1/4 inch or greater nominal thickness.

(9) Where tanks are of welded construction the commissioner may require evidence of the integrity and responsibility of the firm or individual doing the work.

(10) On all new installations, the commissioner may order any tank or tanks tested by filling with water.

(a) All shop built tanks shall be tested at a pressure of not less than 5 pounds per square inch measured at the top of the tank for a period of at least 10 minutes without leakage or permanent deformation.

(11) Field erected vertical tanks constructed as required in subrules (4) and (5) of this rule shall be presumed to have a safe working pressure not to exceed 3 inches of water, which is approximately 1¾ ounces per square inch.

(12) Tanks constructed in accordance with subrules (6), (7), and (8) of this rule shall be presumed to have a safe working pressure of 1 pound per square inch.

History: 1954 ACS 5, p. 21, Eff. Feb. 15, 1956.

R 28.649 Vents.

Rule 49. (1) Tanks shall have normal venting capacity sufficient to permit the filling and emptying of such tanks, plus their breathing due to temperature changes, without distortion of the tank.

(2) All openings above the liquid level other than vents shall be provided with a cover of a manually or automatically closed type. Manholes, gauge caps and other manually closed openings shall be kept tight.

(3) Each tank for storing class I or II flammable liquids shall be equipped with either venting devices, which shall be normally closed when not under pressure or vacuum, or with a permanently open vent provided with an approved corrosive resistant flame arrester so attached as to completely protect the opening except that tanks under 126,000 gallons (3,000 bbls.) capacity for crude oil in producing areas may have unprotected open vents, or tanks storing products which tend to render vents or flame arresters inoperative due to condensation or crystallization may have unprotected open vents during seasons when such condensation or crystallization occurs.

(4) Every storage tank shall be provided with relief venting of adequate capacity to relieve excessive pressure in the tank in the event of exposure to fire. The area of the emergency relief vents, combined with the area of the normal breather vents, shall be sufficient to relieve excess pressure within the tank without distortion of the tank. Self-closing manhole covers or gauge hatch covers may serve as excess-pressure vents provided they are arranged to open under pressure within the safe working pressure of the tank and will remain closed during the normal breathing of the tank.

Required total pressure relief capacity of vents shall be according to the following table:

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Capacity of tank Gallons	42-Gallon Barrels	Total pressure relief capacity (Cu. Ft. of free air per hour)	Diameter in inches of free circular opening for various pressures 3 In. of Water*	1 PSI**	2½ PSI***	5 PSI***
1,000 or less	23.8	25,300	4	2¼	2	1½
4,000	95.2	69,500	6¾	3¾	3	2½
18,000	428	139,000	9½	5½	4¼	3¾
25,000	595	166,000	10¼	6	4¾	4
56,000	1,330	253,000	12¾	7¼	5¾	5
100,000	2,380	363,000	15¼	8¾	7	6
155,000	3,690	458,000	17¼	9¾	7¾	6½
222,000	5,290	522,000	18¼	10½	8¼	7
475,000	11,300	624,000	20	11¼	9	7¾
735,000	17,500	648,000	20	11½	9¼	7¾
Unlimited		648,000	20	11½	9¼	7¾

Departmental note: *Three inches of water which is approximately 1⅝ ounces per square inch is probably the maximum pressure which should be placed on the ordinary type of cone roof on vertical steel tanks.

**One pound per square inch is probably conservative for the pressure to be allowed in the ordinary type of horizontal tanks.

***These columns refer to tanks especially constructed to withstand the working pressure given and are not commonly in use.

The area of vents to relieve excess pressure for tanks with intermediate capacities shall be determined by proportional interpolation.

(5) Venting equipment installed for normal operation may serve as emergency relief provided that it has the requisite capacity under the pressure limitation fixed by the table in subrule (4) of this rule.

(6) Pressure relief devices and vents shall be maintained in proper operating condition at all times.

History: 1954 ACS 5, p. 23, Eff. Feb. 15, 1956.

R 28.650 Valves and piping.

Rule 50. (1) Each pipe attached to a tank below liquid level shall be provided with a valve at the tank, with no branches or outlets between the tank and valve. In case 2 or more tanks are cross-connected, there shall be a valve at each tank in each cross-connection.

(2) In addition to the valve required by subrule (1) of this rule, all below liquid level openings in tanks to which piping is attached shall be protected by the installation of an approved heat actuated internal quick closing valve which will automatically prevent the flow of liquid from the tank in the event of fire, except that such valves shall not be required on crude oil tanks or on pipe openings equipped with swing lines. Such internal valves may also be omitted, when approved by the commissioner where there is provision made for transfer of flammable liquids by pumping.

(3) Internal valves as required in subrule (2) shall be maintained in a proper operating condition at all times.

(4) Swing lines when accepted in lieu of the internal valves required by subrule (2) shall be securely supported above the liquid level of the tank except when actually in use.

(5) Water drain valves shall be of an approved non-freeze type and shall be locked or otherwise secured in a closed position when not in use.

History: 1954 ACS 5, p. 23, Eff. Feb. 15, 1956.

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R 28.651 Vapor lines.

Rule 51. Vapor lines are prohibited except when specifically approved by the commissioner and, when permitted, shall be provided with heat actuated dampers installed as close as possible to the shell of each tank.

History: 1954 ACS 5, p. 24, Eff. Feb. 15, 1956.

R 28.652 Protection and care of tank yard.

Rule 52. (1) The area which embraces the tank yard, including dike and all above ground pipe lines, shall be properly fenced with a metal fence to discourage trespassing when required by the commissioner.

(2) Property shall be kept free from weeds, high grass, rubbish, and litter, and shall be kept neat, clean, and orderly throughout at all times.

(3) Open light or flame shall be kept away from the vicinity of tanks or piping containing flammable liquids.

(4) No barrels or drums, empty or full, and no combustible materials shall be permitted under or within 10 feet of any storage tank or within a dike.

History: 1954 ACS 5, p. 24, Eff. Feb. 15, 1956.

R 28.653 Above ground tanks labeled.

Rule 53. Each tank used for the storage of flammable liquids shall be conspicuously and legibly marked in letters at least 3 inches high on a background of sharply contrasting color, or signs to the same effect may be posted adequately serving the tanks installed, as follows: "FLAMMABLE LIQUIDS—KEEP FIRE AWAY."

History: 1954 ACS 5, p. 24, Eff. Feb. 15, 1956.

R 28.654 Change in tank service.

Rule 54. No person shall place a class III flammable liquid in a tank of 3,000 gallons capacity or less which has previously contained a class I or II flammable liquid unless the tank has been thoroughly cleaned of such class I or II flammable liquid. If washing or some equally satisfactory method is not employed, the tank should be flushed with sufficient class III flammable liquid to wash out any residue of the class I or II flammable liquid and the tank should then be completely filled with the class III flammable liquid.

History: 1954 ACS 5, p. 24, Eff. Feb. 15, 1956.

UNDERGROUND, ENCLOSED, AND INSIDE STORAGE

R 28.655 Locations outside of buildings.

Rule 55. (1) No underground tanks shall be installed less than 300 feet from any mine shaft, air or escape shaft for any mine.

(2) An underground tank for flammable liquids shall be located not less than 3 feet measured horizontally from the nearest point of the shell to the nearest line of adjoining property that may be built upon and the nearest outside wall of any basement, cellar or pit, of which the floor is lower in elevation than the top of such tank.

(3) Tanks for storage of flammable liquid may be installed under the lowest floor of a building in compliance with these regulations.

History: 1954 ACS 5, p. 24, Eff. Feb. 15, 1956.

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R 28.656 Locations inside of buildings.

Rule 56. (1) Tanks for storage of class I and II flammable liquids shall not be installed inside buildings except as provided elsewhere in these regulations.

(2) Class III flammable liquids may be stored inside buildings in tanks which shall not be located within 5 feet horizontally, of any fire or flame. Such tanks shall not be located in buildings above the lowest story, cellar, or basement, except in commercial, industrial or process plants where storage on a higher floor is required by the process.

(3) Tanks for class III flammable liquid exceeding 275 gallons individual capacity or 550 gallons aggregate capacity in an individual building or in a section of a building separated by firewalls shall be installed in an enclosure constructed as follows: The walls of the enclosure shall be constructed of reinforced concrete at least 6 inches thick or of brick at least 8 inches thick. Such enclosures shall be installed only on concrete or other fire-resistive floors and shall be bonded to the floors. Enclosures shall have tops of reinforced concrete at least 6 inches thick or equivalent fire-resistive construction, except that where floor or roof construction above the enclosure is concrete or other fire-resistive construction, the walls may be extended to and bonded to the underside of the construction above in lieu of the provision of a separate top. No openings shall be permitted in walls of such enclosures unless provided with an approved fire door and frame installed at a height above potential liquid level, if tank contents should be discharged into vault. The area of the enclosure shall be of a size to accommodate the tank or tanks plus a distance of 3 feet to any inside wall of the enclosure, 1 foot to any outside wall of the enclosure and 1 foot between the top of the tank and the top of the enclosure. If the top of the vault is to be driven over, it must be designed to safely bear the weight of the vehicle. The maximum gross capacity of tanks installed in this manner shall not exceed 15,000 gallons.

History: 1954 ACS 5, p. 24, Eff. Feb. 15, 1956.

R 28.657 Setting of tanks.

Rule 57. (1) Underground tanks shall be set on firm foundation and surrounded on all sides with not less than 6 inches of noncorrosive inert material such as clean sand, earth or gravel well tamped in place. Tanks shall be covered with a minimum of 2 feet of earth, or shall be covered with not less than 1 foot of earth on top of which shall be placed a slab of reinforced concrete not less than 4 inches thick. When subjected to traffic or likely to be so subjected in the future, tanks shall be protected against damage from vehicles passing over them by at least 3 feet of earth cover, or 18 inches of well-tamped earth, plus either 8 inches of asphaltic concrete or 6 inches of reinforced concrete. When asphaltic or reinforced concrete paving is used as part of the protection, it must extend at least 1 foot horizontally beyond the outline of the tank in all directions.

(2) In no case shall tanks be placed in such proximity to footings, nor shall footings be placed in such proximity to tanks as to cause bearing stress on the tanks.

(3) Inside storage tanks shall be securely supported on noncombustible material to prevent settling, sliding or lifting.

(4) The commissioner may specify additional precautions which must be taken to protect a tank to be located in an area subject to flooding.

History: 1954 ACS 5, p. 25, Eff. Feb. 15, 1956; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

R 28.658 Design and construction of tanks.

Rule 58. (1) Underground or enclosed tanks shall be designed and constructed to withstand safely the service to which subjected. Material other than steel, if

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used, shall be of suitable durability and of thicknesses providing equivalent strength to that provided by steel. Steel commonly known as "mill seconds" shall not be used. Steel tanks shall be of a minimum U.S. standard gauge in accordance with the following table:

Capacity (gallons)	Minimum thickness of material U.S. standard gauge	Pounds per square foot
1 to 285	No. 14	3.125
286 to 560	No. 12	4.375
561 to 1,100	No. 10	5.625
1,101 to 4,000	No. 7	7.50
4,001 to 12,000	¼ in.	10.00
12,001 to 20,000	5/16 in.	12.50
20,001 to 30,000	⅜ in.	15.00

If adequate internal bracing is provided, tanks of 12,001 to 30,000 gallons capacity may be built of ¼ inch plate.

(2) Unenclosed tanks installed inside buildings used for class III flammable liquids shall not exceed 275 gallons individual capacity. They may be cylindrical or of a special form which has been demonstrated by appropriate tests to possess strength and tightness of an acceptable degree. Material other than steel, if used, shall be of suitable durability and thickness to provide strength equivalent to that provided by steel. Steel commonly known as "mill seconds" shall not be used. Steel tanks shall be of a minimum U.S. standard gauge in accordance with the following table:

Capacity (gallons)	Minimum thickness of material U.S. standard gauge	Pounds per square foot
1 to 180	No. 16	2.50
181 to 275	No. 14	3.125

(3) All joints of tanks shall be riveted and caulked, brazed, welded, or made tight by some equally satisfactory process. Shells of tanks shall be properly reinforced where connections are made. All connections to tanks covered by subrule (1) of this rule shall be made through the tops of the tanks above the liquid level.

History: 1954 ACS 5, p. 25, Eff. Feb. 15, 1956.

R 28.659 Vents.

Rule 59. (1) Vent pipes from tanks storing class I or class II flammable liquids shall be so located that the discharge point is outside of buildings, higher than the fill pipe opening, not less than 12 feet above the adjacent ground level, and not within 5 feet measured horizontally or vertically from any window or other opening into a building or any source of ignition. Vent pipes shall discharge only upward or horizontally. Vent pipe outlets shall be so located that flammable vapors will not enter building openings, or be trapped under eaves or other obstructions. Vent pipes 2 inches or less inside diameter shall not be obstructed by devices that will reduce their capacity. If the vent pipe is greater than 2 inches inside diameter, the outlet shall be provided with a vacuum and pressure relief device or an approved flame arrester.

(2) Vent pipes from tanks storing class III flammable liquids shall terminate outside of buildings and at least 2 feet higher than the fill pipe opening and of such greater height as is necessary to assure it being above snow level. Vent pipes shall

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be fitted with return bends, coarse screens or other devices to minimize ingress of foreign material.

(3) All vent pipes shall be at least 1¼ inches inside diameter and in no case less than ½ the diameter of the fill pipe; or, if the tank is filled by pump with tight connection, the vent pipe shall be equal in size to the fill pipe.

(4) Vent pipes shall be so laid as to drain toward the tank without sags or traps in which liquid can collect. They shall be located so that they will not be subjected to physical damage above ground. The lower end of a vent pipe shall enter the tank through the top and shall not extend into the tank more than 1 inch.

(5) Vent pipes from a battery of tanks containing the same type of liquid may be manifolded if the manifolding connection is at least 1 foot above the top of the highest reservoir from which the tanks may be filled through continuous piping or hose. The size of the header in this case shall be equal to the combined cross-sectional area of the 2 largest vents connected to the header.

History: 1954 ACS 5, p. 28, Eff. Feb. 15, 1956.

R 28.660 Fill pipes, gauge openings, and manholes.

Rule 60. (1) Tanks shall be filled only through fill pipes terminating outside buildings and at a point at least 5 feet away from any doorway, window or other opening into a building.

(2) Fill pipes, gauge openings and manholes shall be closed liquid-tight when not in use and shall be protected against mechanical damage by location, design or a cover.

(3) Fill pipes shall be identified by a color code or marking to identify the product for which the tank is used. In addition, tanks storing class III flammable liquids for sale and in the same immediate location with tanks for class I and II flammable liquids shall be provided with some positive means, such as different pipe sizes, fill devices, or special locks or other method designed to prevent the erroneous delivery of gasoline or any other class I or II flammable liquid into such tanks used for class III flammable liquids.

(4) Where fill pipe does not permit gauging, a separate gauge opening shall be provided. Gauge openings, if independent of fill pipe, shall be provided with liquid-tight cap or cover. Where class I or class II liquids are stored under a building, such gauge opening shall be protected against vapor release or liquid overflow by means of a spring-loaded check valve, a sealed gauge or other approved device.

(5) During filling operations, no opening shall be allowed to the tank except fill pipes and vent pipes.

(6) The filling and discharge lines from all underground and enclosed tanks for flammable liquids shall enter tanks only through the top and shall have a pronounced slope downward towards the tank. The discharge pipes from all tanks permitted by R 28.656(2) to be installed unenclosed inside of a building may discharge by gravity from below liquid level.

History: 1954 ACS 5, p. 28, Eff. Feb. 15, 1956.

R 28.661 Filling underground, enclosed, or inside tanks.

Rule 61. (1) Underground, enclosed or inside tanks for class I or II flammable liquids shall not be filled by gravity from above ground storage tanks.

(2) Any person in charge of filling tanks shall be in immediate and constant attendance and means shall be provided for promptly stopping the flow to such tanks at the point of filling.

History: 1954 ACS 5, p. 27, Eff. Feb. 15, 1956.

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R 28.662 Testing underground, enclosed, and inside tanks.

Rule 62. (1) Before being covered or placed in use, new tanks and piping connected thereto must pass a test for tightness of 5 pounds per square inch, either air or hydrostatic.

(2) The commissioner may require tests of any underground, enclosed or inside tank and/or its piping whenever he shall have reason to believe that the tank and/or its piping is defective. Tests shall be provided by the owner or person in control of the premises on which the tank or piping is located.

(3) Tests shall be by a hydrostatic standpipe test or other suitable means as approved by the commissioner.

(4) Tests shall be conducted in the presence of the enforcing officer or the results of the test shall be reported to the commissioner in the form of an affidavit.

History: 1954 ACS 5, p. 27, Eff. Feb. 15, 1956.

R 28.663 Abandonment of tanks.

Rule 63. (1) A temporarily out-of-use tank shall be a tank in good condition that is out of use on property on which other underground tanks are being used; or such a tank out of use on occupied property where only seasonal demand necessitates use of the tank. Temporarily out-of-use tanks shall be emptied of their contents down to the bottom of the suction line and all lines to the tank, except the vent line, securely capped. Vent lines shall be maintained as required for tanks in use. Temporarily out-of-use tanks shall be safeguarded by the person, firm, or corporation in control of the premises on which the tanks are located.

(2) An indefinitely out-of-use tank shall be a tank in good condition that is out of use on unoccupied property; or such a tank out of use on occupied property where no other underground tanks are used for storage of flammable liquids. Indefinitely out-of-use tanks shall be filled to overflowing with water; then the water expelled from the piping, and the piping filled up to ground level with a nonfreezing liquid having a flash point above 100 degrees Fahrenheit. All lines, except the vent line, shall be securely capped, and access to a line leading directly to the tank shall be maintained for inspection purposes. Such tanks shall be maintained in this manner until restored to use, removed, or permanently safeguarded. Indefinitely out-of-use tanks shall be safeguarded by the owner of the property on which the tanks are located, unless the last user of the tanks is in control of the property, in which case it shall be his responsibility so long as he remains in control of the premises.

(3) A permanently out-of-use tank shall be a tank that has become defective and is not suitable for flammable liquid storage; or a tank that is out of use because it is no longer of incidental use to the type of occupancy on the property; or a tank that is classified as indefinitely out-of-use but which is not maintained in the manner approved herein for such tanks. Permanently out-of-use tanks shall be removed from the ground and the excavation backfilled to grade level. When practical difficulty or unnecessary hardship precludes removal of the tank, as in the case of structures above, or subgrade structures near the tank, the tank may be completely filled with sand or other approved material through an opening in the top of the tank. When it is impracticable to safeguard a tank in the foregoing manner mentioned in this paragraph, and the corrosion of the tank will not later endanger floors or foundations above or near the tank, the commissioner may permit the tank to be safeguarded by completely emptying it of its flammable contents and rendering it gas-free by an approved method. Permanently out-of-use tanks shall be safeguarded by the owner of the property on which the tanks

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are located, unless the last user of the tank is in control of the property, in which case it shall be his responsibility to so safeguard the tanks.

(4) If a tank is to be disposed of as junk, it shall be rendered gas-free and a sufficient number of holes or openings shall be made in it to render it unfit for further use.

History: 1954 ACS 5, p. 27, Eff. Feb. 15, 1956.

DIVISION III

FLAMMABLE LIQUIDS FOR PRIVATE USE

R 28.664 Application.

Rule 64. No person shall store flammable liquids for private use unless such flammable liquids are stored, handled, and used as hereinafter provided in this division. Such storage shall not be located within the corporate limits of any city or village unless approval of local authorities has been obtained. This division of these rules does not apply to the storage of fuel oil for heating purpose.

History: 1954 ACS 5, p. 28, Eff. Feb. 15, 1956.

R 28.665 Approved methods of storage, handling, and use.

Rule 65. (1) Flammable liquids for private use may be stored, handled, and used as provided by the acceptable regulations for underground and above ground storage in division II of these rules.

(2) Flammable liquids for private use may also be stored in and dispensed from containers having a capacity of less than 551 gallons as provided for in this division.

History: 1954 ACS 5, p. 28, Eff. Feb. 15, 1956.

R 28.666 Individual containers of 60 gallons or less capacity.

Rule 66. (1) Containers for the storage of flammable liquids having an individual capacity of 60 gallons or less shall be of substantial, closed, metal construction.

(2) Storage of flammable liquids in residences shall be for private use only and except for material necessary for decorating or maintenance of the premises, shall be limited to not more than a total of 6 gallons of class I and II liquids in approved safety cans or original sealed containers and not more than a total of 10 gallons of class III flammable liquids in closed containers. Such storage must be in a room with direct ventilation to the outside and remote from flame or open fire. Storage of class I or II flammable liquids must not be in any cellar, basement, or pit. Decorating and maintenance material shall be stored only in such quantities as are necessary for the building and shall be kept in closed containers remote from sources of ignition.

(3) Except as provided for in subrule (2), this class of container for storage of class I and II flammable liquids shall be limited to a total storage of not more than 300 gallons and shall be stored outside at least 40 feet from any building or combustible material and at least 25 feet from property lines, high level water line of any stream, river, or lake, and shall be so located to prevent spillage from draining to any building, combustible material, or waterway. Containers for the storage of any class flammable liquids may be stored inside of a building used exclusively for the storage of flammable liquids provided that the building is located at least 40 feet from any other building, property line or other combustible material and has cross ventilation at floor level with at least 2 vents of 64 square inches area each. Illumination, if provided, shall be by electricity installed as

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required by the 1962 national electrical code for class I, division I, hazardous locations. Heating, if provided, shall be by indirect steam or hot water only. No open flame, heat generating appliance or electrical device other than approved for hazardous locations shall be permitted in such buildings. The door to such a building shall be conspicuously marked in letters at least 3 inches high on a background of sharply contrasting color with the words, "FLAMMABLE LIQUIDS—KEEP FIRE AWAY."

(4) Flammable liquids in containers covered by this rule shall not be discharged by any method or device requiring pressure on the container.

(5) Dispensing flammable liquids from containers of 30 gallons or more inside a building shall be by a well maintained pump.

(6) Individual containers in this category shall not be interconnected.

History: 1954 ACS 5, p. 28, Eff. Feb. 15, 1956; 1954 ACS 35, p. 7, Eff. Aug. 14, 1963.

R 28.667 Containers or tanks of 61 to 550 gallons capacity each.

Rule 67. (1) Class I and II flammable liquids in above ground containers of 61 to 550 gallons individual capacity shall be stored outside of buildings and at least 40 feet from any building, property line, combustible material, high level water line of any stream, river or lake, and shall be located so as to prevent spillage from draining to any building, combustible material or waterway.

(2) Such containers shall be of single compartment design and constructed throughout of steel of not less than no. 14 U.S. standard gauge and made vapor- and liquid-tight. Such tanks shall be welded, or riveted and caulked or otherwise made tight in a workmanlike manner.

(3) A fill opening shall be provided and shall be equipped with a closure designed so that it may be locked.

(4) A vent shall be provided having a free opening of not less than 1¼ inch in diameter.

(5) Containers to which this rule applies shall be mounted on supports of noncombustible material of adequate strength to properly support the tank and contents and so designed as to provide a stable support. Such containers shall be so supported that they will be protected from corrosion and not in contact with the ground.

(6) Containers to which this rule applies may be provided with top openings only and when so designed, the contents shall be discharged by a tightly and permanently attached approved pumping device having an approved hose. Either the pump or the hose shall be equipped so that it may be locked to discourage tampering. An effective antisiphon device shall be included in the pump discharge. Discharging of the contents by means of siphons or internal pressure is prohibited. Containers in this category may also be designed for gravity discharge and when so designed, all below liquid level openings shall be protected by installation of an approved heat actuated internal quick-closing valve which will automatically prevent the flow of liquid from the tank in the event of fire and which likewise may be readily closed manually. Gravity discharge outlets shall be provided with an approved hose equipped with a self-closing valve at the discharge end of a type that can be locked to its hanger to discourage tampering.

(7) If more than 1 tank of this type is installed on the same property, a distance of not less than 3 feet shall be maintained between tanks.

(8) Containers of this capacity shall not be interconnected.

(9) Not more than 4 containers of the type provided for in this rule may be installed on any premises.

History: 1954 ACS 5, p. 28, Eff. Feb. 15, 1956; 1954 ACS 35, p. 7, Eff. Aug. 14, 1963.

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R 28.668 Protection and care of tank area.

Rule 68. The storage area shall be maintained free from weeds, high grass, rubbish, and litter, and shall be kept neat, clean, and orderly at all times.

History: 1954 ACS 5, p. 29, Eff. Feb. 15, 1956.

R 28.669 Marking containers.

Rule 69. (1) Containers filled or sold containing gasoline, benzine or naphtha shall be painted vermilion bright red and shall be lettered or labeled with the word "GASOLINE," "BENZINE" or "NAPHTHA." No kerosene shall be put into or sold in a container painted vermilion bright red as provided in Act No. 37 of the Public Acts of 1909, known as the "Red Can Act."

(2) Containers for storage of flammable liquids other than gasoline, benzine or naphtha shall be clearly marked with the common or brand name of the product which they contain and, "FLAMMABLE LIQUIDS—KEEP FIRE AWAY."

History: 1954 ACS 5, p. 29, Eff. Feb. 15, 1956.

DIVISION IV

PIPING, VALVES, AND DISCHARGE SYSTEMS

R 28.670 Application.

Rule 70. (1) The provisions of division IV shall apply to all flammable liquid installations, except pipelines as outlined under subrule (2) of this rule.

(2) Pipelines shall be constructed in accordance with standards established by the American standards association (code for pressure piping, B31.1-1955) and operated in accordance with good engineering practice.

History: 1954 ACS 5, p. 29, Eff. Feb. 15, 1956.

R 28.671 Material.

Rule 71. All piping shall be standard full weight wrought iron, steel or brass pipe with standard fittings, or approved seamless copper, aluminum, brass or other approved nonferrous tubing with approved fittings or other material suitable for use with flammable liquid being handled, provided that approved flexible metal hose may be used where rigid connections are not practical. For working pressures in excess of 250 pounds, extra heavy pipe and fittings, or equivalent thereof, shall be used. Where wrought iron or steel pipe is used, internal diameter shall be not less than ⅛ inch, except that such pipe of ¼ inch minimum internal diameter may be used for domestic oil burner installations. In lieu of the above, piping shall comply with American standards association (code for pressure piping, B31.1-1955.)

History: 1954 ACS 5, p. 29, Eff. Feb. 15, 1956.

R 28.672 Runs.

Rule 72. Piping shall be run as directly as practicable and proper allowance made for expansion and contraction.

History: 1954 ACS 5, p. 30, Eff. Feb. 15, 1956.

R 28.673 Protection of piping above ground.

Rule 73. (1) Pipe systems shall be substantially supported and protected against physical damage and excessive stresses arising from settlement, vibration, expansion, or contraction.

(2) Supports for piping shall be of noncombustible material.

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(3) All above ground piping shall be tested for leaks under air pressure of 50% in excess of the maximum working pressure.

(4) Piping subject to external corrosion shall be painted or otherwise protected.

History: 1954 ACS 5, p. 30, Eff. Feb. 15, 1956.

R 28.674 Protection of piping underground.

Rule 74. (1) Underground piping shall not be surrounded or covered by cinders or other material of a corrosive nature. All underground piping shall be protected from corrosion.

(2) Where underground piping is subject to traffic or is likely to be subject in the future, it shall be protected against damage from vehicles passing over it.

(3) New piping shall be properly hydrostatically tested before being put in operation. Repair of piping should be properly tested for leaks prior to back fill.

(4) Wherever piping from an underground tank extends through a concrete slab, there shall be a sleeve or expansion material provided in the slab around the pipe. If a fitting on a pipe extending from an underground tank is embedded in the slab, the opening in the slab shall be larger than the largest part of the fitting.

(5) Underground systems shall be designed and installed to relieve stress on the piping.

History: 1954 ACS 5, p. 30, Eff. Feb. 15, 1956.

R 28.675 Piping inside buildings excluding bulk plant pumphouse.

Rule 75. (1) All piping systems used for handling flammable liquids shall be installed outside of buildings, either above ground or underground, except where manufacturing processes require pipelines for delivery of such liquids inside of buildings.

(2) All piping systems in buildings shall be so designed that flammable liquids will not continue to flow by gravity or siphoning from storage tank in case of breakage of pipe or fitting.

(3) Suitable shut-off valves shall be installed at strategic locations in all piping used for flammable liquid so that the flow of such liquid may be stopped at time of emergency, i.e., fire, line breakage, or building collapse. These valves shall be so located that they can be readily and safely operated at any time. The operation of the shut-off valve may be automatic or manual or both, depending upon the extent and severity of the hazard involved. Shut-off valves shall be installed on the suction side of all pumps handling flammable liquids whether installed inside or outside of a building.

(4) Where the degree and extent of the hazard is abnormally severe, the shut-off valves installed in the pipelines supplying flammable liquids to the area may be equipped with heat actuating devices such that the valve trips shut and must be manually reset in the open position. These automatic valves shall also be equipped with manual trips for closing.

(5) The requirements of this rule shall not apply to piping systems feeding fuel oil burning or heat generating equipment.

History: 1954 ACS 5, p. 30, Eff. Feb. 15, 1956.

R 28.676 Joints.

Rule 76. (1) Joints may be welded, brazed, flanged, or of ordinary screw type made up with an approved joint compound.

(2) Soldered joints in copper piping may be used underground only.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

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R 28.677 Protection against intermixing.

Rule 77. (1) No class III flammable liquid shall be handled through a line used for class I or II flammable liquids, except through lines at refineries, marine or pipeline terminals, or where mixing of liquids is necessary to produce a finished product. This does not prohibit a permanent change in the use of a pipeline providing lines are thoroughly drained and flushed before making such change.

(2) Piping or tanks containing class I or II flammable liquids shall not be cross-connected to pipes or tanks containing class III flammable liquids except at refineries, marine or pipeline terminals or where mixing of flammable liquids is necessary to produce a finished product.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

R 28.678 Identification of pipelines and valves.

Rule 78. All exposed piping and valves carrying flammable liquids shall be identified by color scheme or durable tags or markings to indicate the type of flammable liquid carried.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

R 28.679 Defective piping.

Rule 79. Defective or leaking piping shall be made tight immediately, or replaced.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

VALVES

R 28.680 Antisiphoning devices.

Rule 80. Overhead draw-off lines shall be equipped with antisiphoning devices installed at the highest point of the line.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

R 28.681 Normal valves.

Rule 81. Each pipe attached to an above ground storage tank below liquid level shall be provided with a valve as near the tank as practicable, with no branches or outlets between the valve and the tank, except expansion by-pass connections. Such valves shall be of steel or have steel bodies. Fittings between such valves and the tank shall be of steel, except that brass or bronze internal emergency check valves may be used. For liquids not compatible with steel, other materials may be used, except that such valves and fittings shall not be of cast iron.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

R 28.682 Pump valves.

Rule 82. (1) Pumps delivering to or taking supply from above ground storage tanks shall be provided with valves on both suction and discharge side of pump, and a check valve on the discharge side when delivering to a tank.

(2) Pumps of the piston, rotary, and gear type shall be provided with relief valve or by-pass set to prevent excessive pressure being created in pipelines or tanks.

(3) Connections to pipelines, by which equipment such as tank cars or tank trucks discharge flammable liquids into above ground storage tanks, shall be provided with check valves for automatic protection against back-flow.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

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R 28.683 Piping valves.

Rule 83. Pipe systems shall contain a sufficient number of valves to properly control the flow of liquid in normal operation and in the event of physical damage.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

R 28.684 Valves and fittings.

Rule 84. Valves and fittings used in connection with flammable liquid piping shall be of a type suitable for such use and shall be maintained free from leaks.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

DISCHARGE SYSTEMS

R 28.685 Protection against intermixing.

Rule 85. Pumps used for class III flammable liquids shall not be used for class I and class II flammable liquids except where necessary at refineries and marine or pipeline terminals or where mixing of liquids is necessary to produce a finished product.

History: 1954 ACS 5, p. 31, Eff. Feb. 15, 1956.

R 28.686 Pumps and motors.

Rule 86. (1) Pumps used for transferring flammable liquids shall be of a type suitable for such use and shall be maintained in good repair and free of excessive leakage.

(2) Pumps handling flammable liquids shall be installed in the open, or in a building constructed and located as required by R 28.687.

(3) Motors, electric wiring, devices, and electric equipment shall comply with the 1971 edition of the national electrical code.

(4) Pump power, other than electrical, shall be designed and installed as approved by the commissioner so as not to create an ignition hazard.

(5) This rule shall not apply to motors and pumps used on fuel oil burning equipment.

History: 1954 ACS 5, p. 32, Eff. Feb. 15, 1956; 1954 ACS 35, p. 7, Eff. Aug. 14, 1963; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

R 28.687 Pump houses and rooms.

Rule 87. (1) Pumps and motors handling flammable liquids when not installed in the open, shall be in a separate building of noncombustible construction not less than 10 feet from tanks, buildings, and property lines which may be built upon and outside of any diked area.

(2) When necessary to install such pumps in buildings used for any other purpose, such as industrial or commercial establishments, such pumps shall be installed in a separate room built according to R 28.694 except, however, that the commissioner may permit the use of approved portable pumps outside such rooms when the nature of the operation precludes permanent installation.

(3) Ventilation shall be provided for all rooms, buildings or enclosures in which flammable liquids are pumped or dispensed. Design of ventilation systems shall take into account the relative specific gravity of the vapors. Ventilation may be provided by adequate openings in outside walls at floor level unobstructed except by louvers or coarse screens. Where natural ventilation is impracticable, approved mechanical ventilation shall be provided.

(4) Artificial lighting and heating for building and rooms, if provided, shall be of a type approved for use in *such locations.*

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(5) No material or equipment not incidental to pumping operations shall be stored in pump houses or rooms where pumps are installed.

(6) This rule shall not apply to pumps and motors used on fuel oil burning apparatus.

History: 1954 ACS 5, p. 32, Eff. Feb. 15, 1956.

R 28.688 Gravity discharge.

Rule 88. Gravity flow of flammable liquids inside a building shall not be permitted except as provided for elsewhere in these regulations.

History: 1954 ACS 5, p. 32, Eff. Feb. 15, 1956.

R 28.689 Pneumatic pressure discharge.

Rule 89. Discharge of flammable liquids from tanks or containers by means of pressure on the tank or container is prohibited unless the containers involved are designed and approved as pressure vessels and the piping system is designed to withstand the pressure involved. In no case shall air pressure be used except in power spraying.

History: 1954 ACS 5, p. 32, Eff. Feb. 15, 1956.

R 28.690 Tests of piping systems.

Rule 90. (1) The commissioner may require tests of any piping system whenever he shall have reason to believe the piping system is defective. Tests shall be provided by the owner or person in control of the premises on which the piping system is located.

(2) Tests shall be by liquid pressure at 5 pounds per square inch or 50% in excess of the working pressure, whichever is greater, or other approved test methods may be used.

(3) Tests shall be conducted in the presence of the enforcing officer or the results of the test shall be reported to the commissioner in the form of an affidavit.

History: 1954 ACS 5, p. 32, Eff. Feb. 15, 1956.

DIVISION V
BULK PLANTS

R 28.691 Application.

Rule 91. This division shall apply to all bulk plants as defined in these rules. Nothing shall prevent alterations or additions to existing bulk plants providing such alterations or additions are in compliance with these rules and all such additions or alterations are approved by the local authorities.

History: 1954 ACS 5, p. 33, Eff. Feb. 15, 1956.

R 28.692 Storage.

Rule 92. (1) Class I flammable liquids shall be stored in above ground tanks outside of buildings, underground tanks, or closed containers provided that containers inside buildings shall not exceed a capacity of 1 gallon each and that there shall be no transfer of liquids within buildings except as provided for in R 28.694.

(2) Class II flammable liquids shall be stored in above ground tanks outside buildings, underground tanks or closed containers provided that containers stored inside shall not exceed 60 gallons capacity each and that there shall be no transfer of liquids within a building except as provided for in R 28.694.

(3) Class I and II flammable liquids shall not be stored on any floor below grade level.

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(4) Class III flammable liquids shall be stored in above ground tanks outside of buildings, underground tanks or in containers.

(5) Containers of flammable liquids stored outside shall be segregated by an open space of at least 10 feet from roadways, sidewalks and structures. Containers piled one upon the other shall be separated by dunnage sufficient to provide stability and to prevent excessive stress on container walls. The height of piles shall be consistent with stability. Drums and barrels stored on their side shall have their heads facing aisles so that leakage of bungs may be detected. Containers storing flammable liquids shall have caps, plugs or bungs replaced immediately after use and when the container is empty.

(6) Containers in excess of 1 gallon individual capacity, whether full or empty, used for class I flammable liquids shall be stored in the open. This is not to be interpreted to prohibit the storage of such containers on an open platform with a canopy roof. Such container storage shall be located in relation to a tank as required for plant buildings.

(7) Containers or other material shall not be stored beneath any tank or within a diked area.

(8) No tank vehicle shall be used or operated as a bulk plant storage facility.

History: 1954 ACS 5, p. 33, Eff. Feb. 15, 1956; 1954 ACS 35, p. 7, Eff. Aug. 14, 1963.

R 28.693 Warehouse buildings.

Rule 93. (1) Warehouse buildings used only for storage provided in R 28.692 and/or for the storage of tank vehicles shall be of noncombustible construction, or have walls of 8-inch masonry construction and a spark-resistant roof.

(2) Floors shall be of noncombustible construction and shall have no pits, holes, pockets, or floor drains direct to sewers unless equipped with an approved type flammable liquids interceptor.

(3) All stairways shall be enclosed in walls of 8-inch masonry construction and openings into such enclosures shall be protected by an approved fire door.

(4) If located more than 5 feet but less than 10 feet from adjoining property lines, which may be built upon, the exposed wall of the building shall be of blank masonry construction or have windows of fixed metal sash, glazed with wired glass and a door opening, if provided, shall be protected by an approved fire door.

(5) If located 5 feet or less from adjoining property line, which may be built upon, the exposed wall of the building shall be of blank masonry construction.

(6) Electrical wiring shall comply with the 1971 edition of the national electrical code.

(7) Heating, if provided, for rooms used for the storage and handling of flammable liquids or for the housing of tank vehicles, shall be by steam or hot water only. The boiler shall be located in a detached building or in a room constructed of an assemblage of materials having at least 1 hour's resistance to fire. Openings between the boiler room and such rooms shall be separated by a distance of at least 10 feet. This subrule shall not be interpreted to prohibit the use of approved unit heaters installed at least 8 feet above floor level or any other heating device approved for such locations.

(8) Warehouses shall be kept clean, neat, and orderly and free from accumulation of grease and oil spillage at all times.

(9) Extinguishers of a type approved for use on flammable liquid fires shall be readily available for incipient fires.

History: 1954 ACS 5, p. 33, Eff. Feb. 15, 1956; 1954 ACS 35, p. 7, Eff. Aug. 14, 1963; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

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R 28.694 Transfer operations inside buildings.

Rule 94. (1) Transfer of class I or II flammable liquids within a building shall be done in a room above grade used for this purpose only and shall be constructed with walls, floor and ceiling of 8 inch solid masonry, or 4 inches of reinforced concrete or other equivalent fire resistant construction approved by the commissioner, except that when the ceiling constitutes the roof of the building, metal lath and plaster with 1 hour's resistance to fire may be used.

(2) All inside door openings shall be provided with a 6 inch high noncombustible, liquid-tight sill or ramp and shall be equipped with an approved fire door with an approved self-closing device.

(3) Floor shall be liquid-tight and arranged to drain to a safe location.

(4) All electrical equipment shall be in accordance with the 1971 edition of the national electrical code.

(5) Natural or mechanical ventilation shall be provided to prevent the accumulation of vapors.

(6) A separate building 10 feet from any other building or property line may be used for the handling of class I or II flammable liquids provided such building is of noncombustible construction throughout and electrical equipment, apparatus and ventilation is furnished as provided in this rule.

(7) Heating, if provided, for such rooms or buildings shall be by indirect steam or hot water only. The boiler shall be located in a detached building or in a room constructed of an assemblage of materials having at least 1 hour's resistance to fire. Openings between the boiler room and such rooms shall be separated by a distance of at least 10 feet.

(8) Extinguishers of a type approved for use on flammable liquids fires shall be readily available for incipient fires.

History: 1954 ACS 5, p. 34, Eff. Feb. 15, 1956; 1954 ACS 35, p. 7, Eff. Aug. 14, 1963; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

R 28.695 Tank vehicle loading and unloading facilities.

Rule 95. (1) Loading docks and platforms for tank vehicles shall be separated from tanks, warehouses, plant buildings, and property lines by a distance of not less than 25 feet measured from the nearest position of any fill stem. Shelter for pumps or loading personnel may be part of the loading dock.

(2) All electrical equipment at tank truck loading docks and platforms shall be of a type approved for use in hazardous locations.

(3) Heating at such locations shall be of a type approved for hazardous locations or by indirect steam or hot water only.

(4) Before tank vehicle loading operations are started, a positive electrical bond shall be established between the tank vehicle and the loading device.

(5) Unloading stubs or risers for discharge from a tank vehicle at a bulk plant shall be located a distance of 25 feet from adjoining property lines which may be built upon, tanks, warehouses and other plant buildings, with the exception of a pump house or loading dock or platform.

(6) Provision shall be made to prevent flammable liquids which may be spilled at loading or unloading points from entering public sewers and drainage systems, or natural waterways. Connections to such sewers, drains, or waterways by which flammable liquids might enter shall be provided with separator boxes or other approved means whereby such entry is precluded.

(7) No tank vehicle shall be loaded or unloaded at a bulk plant while any portion of such vehicle is upon a public street or alley.

(8) A fire extinguisher of 20-B, C size shall be readily available to the loading dock plus additional 20-B, C extinguishers at a ratio of 1 extinguisher for each

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additional 2 loading spots. A 20-B, C extinguisher on a tank vehicle constitutes compliance with this requirement in plants where the driver is the only attendant. All replacement extinguishers in existing bulk plants and all new plants shall be of 20-B, C size. (A "B, C" fire extinguisher means a type as defined by the national fire protection association, standard for the installation of portable fire extinguishers, pamphlet no. 10 of 1970.)

History: 1954 ACS 5, p. 34, Eff. Feb. 15, 1956; 1954 ACS 35, p. 7, Eff. Aug. 14, 1963; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

R 28.696 Tank car loading and unloading operations.

Rule 96. (1) Before tank car loading or unloading operations are started and before any connection or contact is made with piping or other loading or unloading equipment, the tank car shall be electrically grounded by means of a permanent electrical connection of not less than no. 6 stranded copper cable or its equivalent between the rails on which tank cars stand and the piping system of the storage plant.

(2) The unloading of class I flammable liquids from railroad tank cars through a bottom outlet shall not be permitted. Class I flammable liquids shall be unloaded from tank cars only by pumping through the dome or manhole.

(3) After unloading pipe is inserted into the dome of a tank car and before any pumping is done, the dome shall be tightly covered with wet burlap or some other type of cover equally effective.

(4) Unloading from tank cars or boats to tank trucks or portable containers is prohibited.

(5) Tank cars shall not be unloaded by pneumatic pressure.

(6) All connections between tank cars and pipelines shall be in good condition and not permit leakage.

(7) Tank cars shall not be left connected to pipelines except when being loaded or unloaded.

(8) The loading or unloading of a tank car shall be under the immediate supervision of a competent person at all times.

(9) Sidings used in connection with tank car loading or unloading operations shall not be common to other users, unless provided with derails. All sidings on which tank car loading or unloading is done shall be provided with warning stop signs which shall be displayed while tank cars are connected.

(10) Illumination for loading or unloading of tank cars shall be by electricity and in accordance with the 1971 edition of the national electrical code. Use of flame lanterns or other exposed flame lights or fires is prohibited during the process of loading or unloading.

History: 1954 ACS 5, p. 35, Eff. Feb. 15, 1956; 1954 ACS 35, p. 8, Eff. Aug. 14, 1963; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

R 28.697 Sources of ignition.

Rule 97. Flammable liquids shall not be handled, drawn, or dispensed where flammable vapors may reach a source of ignition. Smoking shall be prohibited except in designated locations. "No Smoking" signs shall be conspicuously posted where flammable liquids vapors are normally present.

History: 1954 ACS 5, p. 35, Eff. Feb. 15, 1956.

DIVISION VI

SERVICE STATIONS

R 28.698 Application.

Rule 98. Except as provided for in division III, this division shall apply to any premises, public or private, *where flammable liquids* are dispensed from fixed

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equipment into the fuel tanks of vehicles or internal combustion engines, and shall include facilities on such premises for the lubrication and minor service of such motor vehicles or internal combustion engines and shall cover the storage, handling, and use of flammable liquids in public or private storage or repair garages.

History: 1954 ACS 5, p. 35, Eff. Feb. 15, 1956.

R 28.699 Storage.

Rule 99. (1) Flammable liquids at service stations shall be stored in above ground tanks or underground tanks as provided for in division II of these regulations or in containers as provided for in subrules (2), (3), and (4) of this rule.

(2) No class I flammable liquids shall be stored, handled, or used within any service station building, except packaged items received and resold in unbroken, metal containers of not over 1 gallon capacity each or glass containers of not over 1 quart capacity each. Class I flammable liquids for special purposes, such as white gas or pre-mixed 2-cycle motor fuel, may be stored in and dispensed from containers of not over 60 gallons capacity, each outside on service station premises or other places where such flammable liquids are sold at retail. Dispensing shall be by hand pump mounted in the top of the container. The quantity stored in this manner shall be limited to 2 drums of each special purpose product. Containers shall be located 25 feet from buildings or sources of ignition other than motor vehicles and shall be enclosed by a suitable fence when required by the inspecting authority.

(3) Class II flammable liquids in closed containers not exceeding 60 gallons capacity each may be stored or dispensed from inside the station building, providing that such storage and/or dispensing of class II flammable liquids is in a room where there are no open flame devices other than approved heating equipment installed at least 8 feet above floor level. Such containers shall be stored on end. The total storage of class II flammable liquids inside a service station building shall not exceed 275 gallons. A container equipped with an approved tight fitting pump shall be considered a closed container for the purpose of this subrule.

(4) Class III flammable liquids may be stored and dispensed inside a service station building from approved containers or tanks of not more than 120 gallons capacity each.

History: 1954 ACS 5, p. 35, Eff. Feb. 15, 1956; 1954 ACS 35, p. 8, Eff. Aug. 14, 1963.

R 28.700 Restrictions as to locations.

Rule 100. (1) Flammable liquid dispensing equipment shall be located in relation to a school, hospital, theater, or church so that no portion of any vehicle being served or the dispensing equipment, fill pipe, or vent shall be closer than 40 feet to any such school, hospital, theater or church. The word "school" shall be interpreted to mean any building containing a classroom.

(2) No curb pumps for the dispensing of flammable liquids shall be installed on any sidewalk, alley, street, or highway.

(3) All flammable liquid dispensing equipment shall be so located that vehicles being fueled shall be entirely off sidewalks, alleys, streets, and highways.

(4) Equipment for dispensing motor fuel into the fuel tank of vehicles or portable internal combustion engines shall be located outside of buildings, unless modification of this subrule is made as provided for in R 28.601(3). When so permitted, the dispensing device shall be located in an area of fire resistive construction well away from vehicle storage, repair areas and pits, and well

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ventilated, preferably near a doorway. It shall be protected against physical damage by vehicles by mounting on a concrete island or by equivalent means and shall be located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control. A convenient remote emergency shut-off for electric power to the dispensing unit and the pump supplying it shall be provided.

(5) Apparatus dispensing flammable liquids into the fuel tanks of motor vehicles of the public shall not be located at a bulk plant unless separated by a fence or similar barrier from the area in which bulk operations are conducted.

History: 1954 ACS 5, p. 36, Eff. Feb. 15, 1956.

R 28.701 Dispensing devices.

Rule 101. (1) All dispensing equipment for gasoline or other motor fuel shall be substantially secured to concrete or masonry foundations suitably located and of proper design and dimensions to normally prevent motor vehicles from colliding with the device.

(2) Dispensing devices for flammable liquids shall be of a fixed type taking supply through the top of the tank.

(3) Pumps shall be so arranged as to control the flow of liquid at the point of discharge and, if other than hand-operated, they shall be provided with secondary means of shutting off the power in the event of accident or fire.

(4) Devices that will permit the flow of liquid through a dispensing hose or nozzle when the hand of the operator has been removed from the nozzle are prohibited, unless the pump is manually powered, or the nozzle is approved by underwriters' laboratories, inc. Such a nozzle shall have the latch-open device as an integral part of the assembly and shall shut off the liquid reliably and positively when the gasoline tank is filled, when it falls from the filling neck of an automobile tank, when it is subject to rough usage such as dropping or lack of proper lubrication, or when an automobile is driven away while the nozzle is still in the tank. A competent attendant shall be in the immediate vicinity of the vehicle being filled by such an approved nozzle.

(5) Pumps and other devices handling flammable liquids shall be of an approved type.

(6) Dispensing equipment shall be kept tight and free of leaks.

(7) No pump used for dispensing fuel oil, or kerosene into portable containers shall be located on the same pump island as pumps used for dispensing gasoline; and such pumps for fuel oil or kerosene shall be a minimum distance of 10 feet from the nearest gasoline pump. Pumps, whether with hose or not, used for fuel oil or kerosene, shall be distinctly painted and lettered in contrast to pumps used for gasoline or alcohol.

(8) The installation and use of coin operated dispensing devices for flammable liquids for use by the public is prohibited.

(9) Portable equipment and devices to be used as transportable service stations for dispensing class I or II motor fuel into fuel tanks of vehicles, marine craft, or internal combustion engines are prohibited.

History: 1954 ACS 5, p. 36, Eff. Feb. 15, 1956; 1954 ACS 35, p. 8, Eff. Aug. 14, 1963.

R 28.702 Operation of dispensing equipment.

Rule 102. (1) Flammable liquid fuel shall be dispensed directly from a hose attached to the dispensing device into the fuel tank of a self-propelled vehicle or portable machine.

(2) The fuel tank of motor vehicles shall not be filled until the vehicle's motor has been shut off.

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(3) The discharge nozzle of a dispensing hose shall be maintained in contact with the vehicle tank or container during filling to dissipate static charges.

(4) Care shall be exercised to avoid spillage.

(5) Except as provided for in R 28.704a, a person other than the service station owner, lessee, operator, or an authorized employee shall not use or operate any motor fuel dispensing equipment.

History: 1954 ACS 5, p. 37, Eff. Feb. 15, 1956; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

R 28.703 Station buildings.

Rule 103. (1) Provisions shall be made by grading driveway, raising door sills, or some equally effective means to prevent gasoline spills from flowing into interior of station buildings.

(2) If sewer connections are provided in car washing or greasing rooms, the sewer opening shall be protected by the installation of an approved type flammable liquids interceptor.

History: 1954 ACS 5, p. 37, Eff. Feb. 15, 1956.

R 28.704 Grease pits.

Rule 104. (1) No grease pit shall be located inside a service station building except upon approval of the local fire official having jurisdiction.

(2) All grease pits installed out of doors shall be protected by substantial guard rails or chains.

(3) All grease pits installed in garages, or in service stations, as provided for in subrule (1) of this rule, shall be adequately ventilated by natural or mechanical means to prevent the accumulation of combustible or toxic gases.

(4) No sewer connection shall be permitted from any grease pit.

(5) Any artificial lighting shall be by electricity, and wiring and fixtures shall be of the explosion-proof type, protected against physical damage, in compliance with the 1971 edition of the national electrical code.

(6) All pits shall be kept free from oil, grease, and other combustible material. Flammable liquids shall not be stored or handled in a pit and shall not be drained into a container within a pit. No class I or II flammable liquid shall be used to clean any pit.

History: 1954 ACS 5, p. 37, Eff. Feb. 15, 1956; 1954 ACS 35, p. 8, Eff. Aug. 14, 1963; 1954 ACS 74, p. 6, Eff. Mar. 8, 1973.

R 28.704a Self-service stations.

Rule 104a. (1) Self-service stations shall comply with this division and with other divisions of these rules and in addition shall comply with subrules (2) to (14).

(2) Approved self-service dispensing devices of the remote controlled type installed in a manner that, when a fueling operation is completed the dispenser is deactivated at the emergency control position or dispenser location and may be reactivated only at the emergency controls position, are permitted at self-service stations if there is at least 1 qualified attendant on duty while the station is open to the public. The attendant's primary function shall be to supervise, observe and control the dispensing of class I, II, and III liquids while the liquids are being dispensed. It is the responsibility of the attendant to prevent the dispensing of class I liquid into a portable container which does not comply with R 28.705(4) and section 502 of Act No. 328 of the Public Acts of 1931, to control sources of ignition and to handle accidental spills and fire extinguishers as needed.

(3) The attendant or supervisor on duty shall be capable of performing the functions and assuming the responsibilities covered in subrule (2).

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(4) If the dispensing of a class I liquid at a service station open and available to the public is by a person other than the service station attendant, the nozzle shall be an approved automatic closing type without a hold-open latch.

(5) Approved emergency controls shall be installed at a location not more than 100 feet from a dispenser. The attendant or supervisor shall remain at the emergency controls during the dispensing of a class I liquid. The attendant or supervisor is permitted a reasonable degree of movement beyond his physical reach of the controls; however, the attendant or supervisor shall not be considered to be at the emergency controls if he is removed therefrom by a distance greater than would permit his ready and immediate access to the controls.

(6) Permanent signs and placards printed in not less than ½ inch block letters on a contrasting background shall be posted at each self-service dispensing device and in full view so as to give complete and clear instructions for its operation.

(7) Permanent signs and placards printed in not less than 3 inch block letters on a contrasting background shall be conspicuously posted in full view so as to:

(a) Prohibit smoking anywhere on station property within 15 feet of motor fueling operations.

(b) Require the vehicle engine to be shut off before the fueling operation may begin.

(8) Approved 2-way electronic voice communications shall be provided between the emergency controls position and the self-service dispensing locations unless unaided voice communications may be readily heard under all conditions of operation considering distance, noise levels, obstructions, and enclosures.

(9) Self-service dispensers shall not occupy the same pump island as attended dispensers. Pump islands with self-service dispensers shall be separated from all other attended dispenser pump islands by a distance of not less than 10 feet.

(10) Where vehicle design characteristics or a position or location of a vehicle would obscure the supervisor's view of the fueling operation, or the volume of sales would otherwise prevent reasonable supervision of the fueling operation, there shall be additional procedures or equipment or both so as to provide an unobstructed view.

(11) A self-service station shall be equipped with fire extinguishers in accordance with R 28.710.

(12) Each supervisor or attendant shall supervise the fueling of no more than 9 vehicles. If more than 9 vehicles are to be fueled, there shall be an additional attendant or supervisor on duty for each additional 9 fueling operations or fractions thereof. Sufficient safeguards in the form of barriers or other devices shall be provided to insure that no more than the prescribed number of fueling operations may be carried out at one time as determined by the number of supervisors or attendants on duty.

(13) A self-service gasoline station shall conform to these rules and comply with local ordinances. Approvals shall be obtained from local authorities before a self-service gasoline station is opened to the public.

(14) This rule shall not apply to the operation of marine and aircraft service stations.

History: 1954 ACS 74, p. 7, Eff. Mar. 8, 1973.

R 28.705 Filling containers.

Rule 105. (1) No container shall be filled with flammable liquid while inside a passenger-carrying vehicle. Containers shall be removed from the interior of passenger cars and from the cab or enclosed portion of other vehicles during filling.

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(2) No portable container or containers holding in excess of a total of 6 gallons of class I or II flammable liquids shall be filled for transportation from a service station in a passenger vehicle.

(3) Containers filled or sold containing gasoline, benzine, or naphtha shall be painted vermilion bright red and shall be lettered or labeled with the word "GASOLINE," "BENZINE" or "NAPHTHA." No kerosene shall be put into or sold in a container painted vermilion bright red as provided in Act No. 37 of the Public Acts of 1909, known as the "Red Can Act."

(4) Containers shall be of sound metal construction having a tight closure with screwed or spring cover, except that:

(a) Suitable plastic or glass containers having an individual capacity of not more than 1 pint may be used for flammable liquids.

(b) Suitable plastic or glass containers having an individual capacity of not more than 1 gallon may be used for medicines, beverages, foodstuff, and toiletries that are flammable liquids.

(c) Suitable plastic or glass containers having an individual capacity of not more than 1 gallon may be used for flammable liquids whose chemical purity would be contaminated by metal containers.

History: 1954 ACS 5, p. 37, Eff. Feb. 15, 1956; 1954 ACS 35, p. 8, Eff. Aug. 14, 1963.

R 28.706 Protection and care of service station premises.

Rule 106. (1) No open lights or flames shall be permitted outside of a station building on the premises, except in properly screened incinerators.

(2) Premises shall be kept clean and neat and free from any accumulation of combustible material, and approaches to driveways shall be unobstructed. Grease, oil or paint soaked rags, waste or other combustible material of a like character shall be kept in approved self-closing, metal receptacles.

(3) Cleaning with gasoline or other class I or II flammable liquids shall not be permitted.

(4) Crankcase drainings shall be kept in covered tanks or containers and shall not be used for heating purposes.

(5) Flammable liquids or crankcase drainings shall not be dumped into sewers or disposed of in any manner which will permit it to enter sewers.

(6) All drainage sumps shall be cleaned and maintained to insure proper operation at all times.

(7) In the event of accidental spillage or leakage of any considerable amount of a flammable liquid in any incorporated area, the local fire department and the local department of public works shall be notified immediately.

(8) Smoking in a vehicle being fueled or on station property within 15 feet of fueling operations is prohibited at all times.

History: 1954 ACS 5, p. 37, Eff. Feb. 15, 1956.

R 28.707 Electrical wiring.

Rule 107. All electrical equipment used in connection with occupancies covered in this division shall comply with the 1971 edition of the national electrical code.

History: 1954 ACS 5, p. 38, Eff. Feb. 15, 1956; 1954 ACS 35, p. 8, Eff. Aug. 14, 1963; 1954 ACS 74, p. 7, Eff. Mar. 8, 1973.

R 28.708 Marine service stations.

Rule 108. (1) Marine service stations shall comply with this division and with other divisions of these rules and in addition shall comply with the following subrules

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(2) Storage tanks for class I and II flammable liquids at marine service stations shall be located only on shore or on a pier of solid-fill type. Approved dispensing units installed in the open, with or without integral pumps, may be located on shore, piers of solid-fill type, open piers, wharves or floating docks. Pumps not a part of a dispensing unit shall be located at the tanks.

(3) Floating marine service stations are prohibited except where they are subject to the tank vessel regulations of the United States coast guard.

(4) Tanks and pumps supplying class III flammable liquids at marine service stations may be located on shore, on a pier of solid-fill type or on open piers, wharves or floating docks. Class III flammable liquid tanks which are located other than on shore or on piers of the solid-fill type shall be limited to 550 gallons aggregate capacity. Pumps not a part of the dispensing unit shall be located adjacent to the tanks.

(5) Pipelines attached to piers, wharves or floating docks shall be protected against physical damage, and when attached to piers, wharves or docks other than those of solid-fill type shall be provided with suitable flexibility. Valves shall be provided at convenient locations for control of piping or manifolds where multiple dispensing units are used. A readily accessible valve to shut off the supply from shore shall be provided in each pipeline at or near the approach to the pier, wharf or floating dock.

(6) Pipelines to floating docks shall be so designed and installed as to make appropriate provision for changes in water level or tide. Transition from the fixed portion of the installation to the floating unit shall provide product control, flexibility, and protection against physical damage.

(7) Class I and II flammable liquids shall not be dispensed into fuel tanks of marine craft by means of gravity or from tank truck or from portable dispensing devices. Dispensing shall be by means of fixed equipment through hose, equipped with a self-closing nozzle and with a valve which must be held open by manual control while making a delivery. Nothing herein shall prohibit fueling from a container of 6 gallons or less capacity.

(8) Class III flammable liquids may be dispensed into the fuel tanks of marine craft from tank trucks by gravity or power-operated pumps through a hose equipped with a self-closing nozzle.

(9) Smoking, running motors, open flame, or other sources of ignition in a craft being fueled or within 25 feet of fueling operations shall be prohibited and signs to this effect shall be posted.

(10) Storage of portable fuel tanks used in marine craft, if containing an aggregate of more than 6 gallons of product, shall be stored in accordance with R 28.666(3).

History: 1954 ACS 5, p. 38, Eff. Feb. 15, 1956; 1954 ACS 35, p. 8, Eff. Aug. 14, 1963.

R 28.709 Aircraft refueling.

Rule 109. (1) Permanently installed and portable equipment for the dispensing of flammable liquids into the fuel tanks of aircraft shall be designed and approved for such use.

(2) Tank vehicles used for fueling aircraft shall comply with division I of these rules.

(3) Extreme care shall be exercised to prevent spillage of flammable liquids in, on or in the vicinity of aircraft and such spillages shall be removed immediately by flushing or by rags or oil absorbents, washed from the area with water, or allowed to completely evaporate before the location of the spill is again used for aircraft operations.

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(4) Before fueling operations are started, an electrostatic bond shall be made between the aircraft being filled and the dispensing equipment, and this bond shall be maintained until the refueling is completed.

(5) Open containers shall not be used for the refueling of aircraft with flammable liquids.

(6) Aircraft shall not be fueled while the aircraft engine or engines are running.

(7) Aircraft shall not be refueled in the vicinity of open flames or spark-producing devices.

(8) Smoking in an aircraft being refueled shall be prohibited and passengers remaining in an aircraft being refueled shall be prohibited from smoking during the refueling operations.

(9) Motor vehicles, other than those necessary for servicing the aircraft, shall not be operated in the vicinity of an aircraft being refueled.

(10) High frequency radar equipment mounted in aircraft shall not be operated during fueling operations.

(11) Portable lighting equipment used in the vicinity of an aircraft being refueled shall be electrically operated and of a type approved for use in hazardous locations.

History: 1954 ACS 5, p. 38, Eff. Feb. 15, 1956.

R 28.710 Fire extinguishers.

Rule 110. Each service station shall be equipped with at least 1 fire extinguisher having a minimum classification of 5 B, C as defined by the national fire protection association, standard for the installation of portable fire extinguishers, pamphlet no. 10 of 1970.

History: 1954 ACS 5, p. 39, Eff. Feb. 15, 1956; 1954 ACS 74, p. 8, Eff. Mar. 8, 1973.

DIVISION VII

COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS

R 28.711 Application.

Rule 111. This division shall apply to commercial and industrial establishments as defined in these rules.

History: 1954 ACS 5, p. 39, Eff. Feb. 15, 1956.

R 28.712 Storage.

Rule 112. (1) Outside storage of class I and II flammable liquids for commercial and industrial establishments shall be in above ground or underground tanks as provided for in division II of these rules, or in containers.

(2) Inside storage of class I and II flammable liquids at commercial and industrial establishments shall be limited to as small a quantity as is consistent with the normal storage needs of the establishment. Normally, this quantity should not exceed 1 day's supply of class I and II flammable liquids. Quantities of class I and II flammable liquids in excess of 55 gallons shall be stored in a room or building constructed and located as provided for in R 28.694.

(3) Class I and II flammable liquids at commercial and industrial establishments stored inside a building and outside of a room, as provided for in subrule (2) of this rule, shall be confined to sealed containers not exceeding 5 gallons individual capacity. If not in sealed containers, class I and II flammable liquids should be stored in approved safety containers not to exceed 5 gallons individual capacity where such safety containers are practicable for liquids utilized.

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(4) Storage of class III flammable liquids in commercial and industrial establishments shall be in above ground or underground tanks as provided for in division II of these rules or in containers.

(5) Containers of flammable liquids stored outside shall be segregated by an open space of at least 10 feet from roadways, sidewalks, and structures so as not to constitute an immediate life or property hazard in event of fire. Special attention should be given to routes of egress for building occupants, window and door openings, and combustible exterior walls, platforms, cornices and roofs in securing the desired separation. Containers piled one upon the other shall be separated by dunnage sufficient to provide stability and to prevent excessive stress on container walls. The height of piles shall be consistent with stability. Drums and barrels stored on their sides shall have their heads facing aisles so that leakage of bungs may be detected. Containers storing flammable liquids shall have caps, plugs, or bungs replaced immediately after use and when the container is empty.

History: 1954 ACS 5, p. 39, Eff. Feb. 15, 1956.

R 28.713 Use of flammable liquids.

Rule 113. (1) The mixing and blending of class I or class II flammable liquids in commercial or industrial establishments shall be accomplished only in buildings or in separate rooms of buildings so located or designed to prevent the spread of fire to other structures or property or to other sections of the building. This may be accomplished by confining the mixing or processing of such liquids as follows: (a) to a detached 1-story building; (b) to a 1-story section cut off from the remainder of the building by an approved fire wall with any opening in this wall protected properly by approved automatic fire doors; (c) to a separate fire-resistive area within a building as required by R 28.694. The separation walls, floors, and ceiling of the fire-resistive area shall have a fire-resistance rating of not less than 1 hour with all openings in such walls protected by approved fire doors. Openings in fire walls or separating walls should have noncombustible, liquid-tight sills or ramp preferably 6 inches high, and an alternate to the sill or ramp may be a floor gutter inside the room extending beyond the width of the door and discharging to a safe outside location.

(2) The use of class I and II flammable liquids outside of storage, mixing and/or blending rooms shall be limited to quantities consistent with daily operational needs and confined to approved safety containers wherever practicable.

(3) This rule shall not apply to the following:

(a) For the storage or use of flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant, or mobile heating plant.

(b) For the storage or use of paints, oils, varnishes, or similar flammable mixtures when such liquids are stored for maintenance painting or similar purposes for a period of not more than 30 days.

(c) For plants whose primary business is manufacture, processing, blending, or refining of flammable liquids.

(d) Dry cleaning plants constructed and equipped as required by Act No. 327 of the Public Acts of 1947, being §29.201 et seq. of the Michigan Compiled Laws.

(e) Installations made in compliance with national board of fire underwriters pamphlet no. 34, 1952 edition, entitled "Standards of the National Board of Fire Underwriters for Dip Tanks *Containing Flammable* or Combustible Liquids."

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(f) Installations made in compliance with national board of fire underwriters pamphlet no. 33, 1953 edition, entitled "Standards of the National Board of Fire Underwriters for Spray Finishing with Flammable Materials."

History: 1954 ACS 5, p. 39, Eff. Feb. 15, 1956.

R 28.714 Dispensing.

Rule 114. (1) Flammable liquids shall not be drawn from or dispensed into vessels or containers within a building except by means of a device drawing from the top of the tank or other containers. Within a building gravity discharge of flammable liquids from tanks, drums, or containers other than safety cans is prohibited except where the nature of the manufacturing process requires gravity flow. Where such gravity flow is required, it shall be permitted only from vessels storing flammable liquids sufficient for not more than 1 day's operations or immediate production needs.

(2) Flammable liquids shall not be discharged from tanks or containers by pneumatic pressure.

(3) Class I or II flammable liquids shall not be dispensed within a room or building which contains sources of ignition. Dispensing devices shall be provided with iron or steel valves where compatible with the flammable liquid handled. Where practicable, there shall be, in addition to the outlet valve, a secondary control device or valve outside of the immediate area, by which the flow may be stopped in the event of fire or other accident at the outlet. Outlet valves shall be of the self-closing or heat-actuated type.

(4) Containers of class I and II flammable liquids shall not be filled unless the nozzle and container are electrically interconnected.

(5) Buildings or rooms in which flammable liquids are stored, handled, or used shall have exit facilities arranged to prevent occupants being trapped in the event of fire.

History: 1954 ACS 5, p. 40, Eff. Feb. 15, 1956.

R 28.715 Ventilation.

Rule 115. (1) Buildings or rooms or other enclosures in which flammable liquids are used or stored in open vats or dip tanks shall be provided with ventilation sufficient at all times to prevent accumulation of flammable vapors. Where natural ventilation is insufficient under all conditions to prevent the accumulation of flammable vapors, mechanical ventilation shall be provided and used. The accumulation of flammable vapors within the combustible or explosive range under normal operating conditions, as determined by an approved flammable-vapor indicator, shall be prima facie evidence of the violation of this rule.

(2) Openings to the outside for natural ventilation shall be at floor level and shall be unobstructed except by louvers or coarse screens. Mechanical systems for removing flammable vapors shall be of a type approved for use in hazardous locations.

History: 1954 ACS 5, p. 40, Eff. Feb. 15, 1956.

R 28.716 Sources of ignition.

Rule 116. (1) Open flames, heating devices, and processes employing temperatures capable of igniting the vapors of the flammable liquids used shall be prohibited in buildings, rooms and other confined spaces in which class I or class II flammable liquids are used, or in which class III flammable liquids are used or stored in open vats or dip tanks. In the instance of oil tempering or similar

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operating procedures where high-temperature furnaces are a part of the process involved, such open tanks of flammable liquids may be permitted when these tanks are properly protected from the source of ignition by location, or non-combustible shielding and exhaust ventilation. Appropriate means of rapidly extinguishing fires in such tanks should also be provided at each individual tank. Artificial lighting shall be by electricity only. Electrical devices shall be of a type for such locations in compliance with the 1971 edition of the national electrical code.

(2) Smoking shall be prohibited and suitable signs to that effect shall be displayed.

History: 1954 ACS 5, p. 41, Eff. Feb. 15, 1956; 1954 ACS 35, p. 9, Eff. Aug. 14, 1963; 1954 ACS 74, p. 8, Eff. Mar. 8, 1973.

R 28.717 Housekeeping.

Rule 117. (1) Wherever flammable liquids are stored in containers, provisions shall be made and maintained for the detection of leakage. Leaking containers shall be immediately removed or made tight.

(2) Access shall be provided by unobstructed aisles whereby first aid fire control apparatus may be brought to bear on any part of such flammable liquids storage.

(3) Unnecessary combustible material shall not be permitted to accumulate. Metal containers with self-closing covers shall be provided for the temporary retention of waste material and these shall be removed from the building and the contents disposed of daily or at such additional times as may be necessary.

History: 1954 ACS 5, p. 41, Eff. Feb. 15, 1956.

R 28.718 Fire extinguishing devices.

Rule 118. Fire extinguishers shall be provided in commercial and industrial establishments of a type and in such quantities as public safety shall require. Permanently installed heat actuated extinguishing systems shall also be provided if public safety shall make such additional protection necessary.

History: 1954 ACS 5, p. 41, Eff. Feb. 15, 1956.

DIVISION VIII

PROCESSING PLANTS

R 28.719 Application.

Rule 119. This division shall apply to processing plants as defined in these rules.

History: 1954 ACS 5, p. 41, Eff. Feb. 15, 1956.

R 28.720 Storage.

Rule 120. (1) Storage of flammable liquids in processing plants shall be in above ground or underground tanks as provided for in division II of these rules, or in containers.

(2) Unlimited storage of flammable liquids in metal containers not exceeding 60 gallons individual capacity shall be permitted only in buildings or rooms used solely for the purpose of such storage, and which meets the following design standards: Walls, floors and ceilings shall be of 8 inches of brick or concrete or 4 inches of reinforced concrete or other equivalent fire-resistant construction approved by the commissioner. Openings to other rooms shall have fire doors with heat actuated releasing devices arranged to close doors automatically in case of fire. No combustible material shall be used in construction, except that the floor surfacing may be of wood. Proper ventilation shall be provided in accordance

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with R 28.726. There shall be no openings to rooms below, except as made necessary by trade or manufacturing processes. Such openings shall be provided with a 6-inch curb. All process tanks or groups of process tanks shall be provided with a 6-inch curb.

(3) Within wood frame buildings, storage of class I and class II flammable liquids shall be prohibited. Storage of class III flammable liquids in such buildings shall be limited to 60 gallons unless in accordance with division II of these rules.

(4) In other than frame buildings which do not comply with subrule (2), the storage of class I, II, and III flammable liquids in closed containers may be permitted with the approval of the commissioner.

(5) Containers of flammable liquids stored outside shall be segregated by an open space of at least 10 feet from roadways, sidewalks, and structures so as not to constitute an immediate life or property hazard in event of fire. Special attention should be given to routes of egress for building occupants, window and door openings, and combustible exterior walls, platforms, cornices and roofs in securing the desired separation. Containers piled one upon the other shall be separated by dunnage sufficient to provide stability and to prevent excessive stress on container walls. The height of piles shall be consistent with stability. Drums and barrels stored on their sides shall have their heads facing aisles so that leakage of bungs may be detected. Containers storing flammable liquids shall have caps, plugs, or bungs replaced immediately after use and when the container is empty.

History: 1954 ACS 5, p. 41, Eff. Feb. 15, 1956.

R 28.721 Blending and mixing.

Rule 121. (1) Mixing or blending rooms or buildings shall meet the design standards of R 28.720(2). Mixing or blending rooms or buildings shall be provided with natural or mechanical ventilation that will prevent the accumulation of flammable vapors in hazardous concentration. Openings in outside walls for natural ventilation shall be at floor level and shall be unobstructed except by louvers or coarse screens. Mechanical systems for removing flammable vapors shall be of a type approved for use in hazardous locations. The accumulation of flammable vapors within the combustible or explosive range under normal operating conditions, as determined by an approved flammable vapor indicator, shall be prima facie evidence of the violation of this rule.

(2) Vessels used for mixing or blending flammable liquids shall be provided with tight fitting, noncombustible lids that will control a fire within such a vessel. Where such lids are impracticable, an approved permanently installed fire extinguishing system shall be provided. Portable tanks shall normally be covered with closing lids when material in portable tanks is not being processed.

(3) Open flames and other sources of ignition shall not be used where flammable liquids are mixed or blended in open containers.

(4) Vessels shall be electrically connected by bond-wires, piping, or similar means where differences of potential could otherwise be created by accumulation of static electrical charges.

History: 1954 ACS 5, p. 42, Eff. Feb. 15, 1956.

R 28.722 Dispensing from containers.

Rule 122. (1) Class I or class II flammable liquids shall be dispensed within buildings other than approved storage areas only from approved safety cans and in locations where there are no open flames or other sources of ignition.

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(2) Class III flammable liquids shall be dispensed within buildings other than approved storage areas only from approved safety cans or containers not exceeding 60 gallons individual capacity by means of a pump taking suction through the top of the container.

(3) Flammable liquids shall not be drawn from containers other than approved safety cans in any portion of the building except by means of a pump taking suction through the top of the container.

History: 1954 ACS 5, p. 42, Eff. Feb. 15, 1956.

R 28.723 Transfer of flammable liquids.

Rule 123. (1) The transfer of flammable liquids in processing plants from one processing tank to another shall be by means of a closed piping system or portable containers equipped with proper safety devices.

(2) Transfer of flammable liquids shall not be by means of gravity unless the process is such as to require transfer in this manner.

(3) Transfer of flammable liquids shall not be by pneumatic pressure unless the containers involved are designed and approved as pressure vessels and the piping system is designed to withstand the pressure involved.

History: 1954 ACS 5, p. 42, Eff. Feb. 15, 1956.

R 28.724 Heating.

Rule 124. Heating in any building or portion of a building in which class I and II flammable liquids are stored, blended, mixed, dispensed, used, handled, or processed shall be by indirect steam or hot water or by other heating devices approved for use in hazardous locations.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

R 28.725 Lighting.

Rule 125. Artificial lighting in any building or portion of a building in which class I and II flammable liquids are stored, blended, mixed, dispensed, used, handled, or processed shall be by electricity only. Electrical devices in such locations shall be of a type in accordance with the 1971 edition of the national electrical code.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956; 1954 ACS 35, p. 9, Eff. Aug. 14, 1963; 1954 ACS 74, p. 8, Eff. Mar. 8, 1973.

R 28.726 Ventilation.

Rule 126. Ventilation in any building or portion of a building in which flammable liquids are stored, blended, mixed, dispensed, used, handled, or processed shall be provided to prevent accumulation of flammable vapors at all times. Where natural ventilation is insufficient under all conditions to prevent the accumulation of flammable vapors, mechanical ventilation shall be provided and used. The accumulation of flammable vapors within the combustible or explosive range under normal operating conditions, as determined by an approved flammable vapor indicator, shall be prima facie evidence of the violation of this rule.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

R 28.727 Smoking.

Rule 127. Smoking shall be prohibited and suitable signs to that effect shall be displayed in all buildings or portions of buildings in which class I and II flammable liquids are stored, blended, mixed, dispensed, used, handled, or processed.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

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R 28.728 Sources of ignition.

Rule 128. No open flames, sparking device, or process employing temperatures capable of igniting the vapor of flammable liquids shall be used in any building or portion of buildings in which flammable liquids are stored, blended, mixed, dispensed, used, handled, or processed.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

R 28.729 Housekeeping.

Rule 129. (1) Wherever flammable liquids are stored in containers, provisions shall be made and maintained for the detection of leakage. Leaking containers shall be immediately removed or made tight.

(2) Access shall be provided by unobstructed aisles whereby first aid fire control apparatus may be brought to bear on any part of such flammable liquids storage.

(3) Unnecessary combustible material shall not be permitted to accumulate. Metal containers with self-closing covers shall be provided for the temporary retention of waste material, and these shall be removed from the building and the contents disposed of daily or at such additional times as may be necessary.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

R 28.730 Fire extinguishers.

Rule 130. Fire extinguishers shall be provided in processing plants of a type and in such quantities as public safety shall require. Permanently installed heat actuated extinguishing systems shall also be provided if public safety shall make such additional protection necessary.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

DIVISION IX

CHEMICAL PLANTS, REFINERIES, AND OTHER PLANTS PROCESSING CRUDE PETROLEUM

R 28.731 Application.

Rule 131. This division shall apply to refineries as defined in these rules and other plants processing crude petroleum.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

R 28.732 Storage.

Rule 132. (1) Flammable liquids shall be stored in tanks, either above ground or underground, constructed, located, equipped, and installed as required by division II of these rules.

(2) Flammable liquids in containers shall be stored as provided for in division V of these rules.

(3) Subrules (1) and (2) of this rule shall not apply to process tanks. Process tanks shall be constructed, installed, located, and equipped as required for the process involved and consistent with good safety practice.

History: 1954 ACS 5, p. 43, Eff. Feb. 15, 1956.

R 28.733 Unfired pressure vessels.

Rule 133. Unfired pressure vessels shall be constructed in accordance with recognized standards of design. Vessels meeting the standards of the American petroleum institute—American society of mechanical engineers code for unfired pressure vessels for petroleum liquids and gases, 1952 edition, or rules for

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construction of unfired pressure vessels, section VIII, American society of mechanical engineers boiler construction code, 1950 edition, of the American society of mechanical engineers, shall be deemed prima facie evidence of compliance with this rule.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

R 28.734 Location of process units.

Rule 134. Process units shall be located so that they are accessible from at least 1 side for the purpose of fire control. Where topographical conditions are such that flammable liquids may flow from a processing area so as to constitute a fire hazard, provision shall be made to divert or impound the flow by curbs, drains, or other suitable means.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

R 28.735 Loading and unloading facilities.

Rule 135. Tank vehicle loading and unloading facilities shall comply with R 28.695.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

R 28.736 Tank car loading and unloading.

Rule 136. Tank car loading and unloading operations shall comply with R 28.696.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

R 28.737 Housekeeping.

Rule 137. (1) Wherever flammable liquids are stored in containers, provision shall be made and maintained for the detection of leakage. Leaking containers shall be immediately removed or made tight.

(2) Unnecessary combustible material shall not be permitted to accumulate. Metal containers with self-closing covers shall be provided for the temporary retention of waste material and these shall be removed from the building and the contents disposed of daily or at such additional times as may be necessary.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

R 28.738 Fire extinguishment.

Rule 138. (1) Water shall be available in pressure and quantity sufficient to provide cooling streams for any unit or any tank in the processing area. Hose and hydrants shall be available in sufficient number to provide application of cooling streams as required in this rule. Fire control chemicals and suitable application devices shall be available in sufficient quantities presumed necessary to extinguish a fire in any tank in the processing area.

(2) First aid fire extinguishers of a type and of such quantities as public safety requires shall be provided.

(3) Access shall be provided by unobstructed roadways and aisles whereby fire control apparatus may be brought to bear on any part of the refinery.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

DIVISION X

GENERAL STORAGE AND USE OF FLAMMABLE LIQUIDS

R 28.739 Washing and spraying.

Rule 139. There shall be no washing or spraying of walls or floors with class I or II flammable liquids, unless proper ventilation is provided and approval has been obtained from the local fire official having jurisdiction.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

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R 28.740 Storage in public buildings.

Rule 140. (1) No flammable liquid shall be stored or used in any school, church, theater, hotel, hospital, apartment building, or any building of public assembly, except that which is required for maintenance of the building, laboratory work, or demonstration purposes; and such storage, when permitted, shall be limited in amounts and stored under conditions prescribed by the local fire official having jurisdiction.

(2) This rule shall not apply to flammable liquids used for and connected to heating and power devices by means of piping and stored as provided for in division II of these rules, except where prohibited by other rules.

(3) This rule shall not be interpreted so as to prohibit the storage of alcoholic beverages in an establishment licensed by the Michigan liquor control commission.

History: 1954 ACS 5, p. 44, Eff. Feb. 15, 1956.

LIQUEFIED PETROLEUM GASES

R 28.751—R 28.897 Rescinded.

History: 1954 ACS 22, pp. 5-51, Eff. May 13, 1960; rescinded 1954 ACS 71, p. 6, Eff. Apr. 4, 1972.

SAFETY AND TRAFFIC DIVISION

MOTOR VEHICLE SAFETY BELTS

(By authority of section 710a, chapter 6, of Act No. 300 of the Public Acts of 1949, as amended, being §257.710a of the Michigan Compiled Laws)

R 28.901 Scope of rules.

Rule 1. (1) The following rules shall apply to any person who sells, offers, or keeps for sale, or installs for use in a motor vehicle to be operated on the highways of this state, any safety belt, safety restraining device and attachments and to such belt, device, and attachments.

(2) All persons who sell, offer, or keep for sale or who install for use in a motor vehicle any safety belt, safety restraining device, and attachments, shall be conclusively presumed to know of these rules and whether such equipment is in conformance with them.

(3) Any person or his duly authorized agent confronted with practical difficulties in carrying out the strict letter of these rules may apply to the commissioner for modification thereof. Only such modifications of the rules which will not result in a distinct hazard to the user of the safety belt or safety restraining device and which are in keeping with the spirit and intent of these rules will be considered. The decision of the commissioner including the particulars of any such application shall be entered upon the records of the Michigan state police and a signed copy thereof shall be furnished to the applicant.

History: 1954 ACS 12, p. 5, Eff. Nov. 21, 1957.

R 28.902 Definitions.

Rule 2. (1) Words and phrases used in these rules will be given the meaning commonly ascribed to them.

(2) "Safety belt" shall mean a belt of flexible material designed for installation and use in a motor vehicle to prevent or materially restrain the horizontal or vertical movement of the occupants in the event of collision or upset. The term "lap type seat belt," as commonly used by industry and other agencies, shall have *the same meaning as* the term "safety belt" as used in these rules.

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(3) "Safety restraining device" means any device other than a safety belt intended to provide protective restraint for the occupants of a motor vehicle.

(4) "Commissioner" shall mean the commissioner of the Michigan state police.

History: 1954 ACS 12, p. 5, Eff. Nov. 21, 1957.

R 28.903 General design.

Rule 3. (1) Each safety belt assembly or restraining device shall be designed for a single occupant.

(2) The portions of the belt webbing which may come in contact with the occupant shall be at least 1⅞ inches wide under no load and not less than 1 13/16 inches wide when subjected to the tensile test load specified in R 28.906(1)(a).

(3) Each belt assembly shall be adjustable in length and shall include an easily operable quick opening mechanism or buckle.

(4) The ends of the belt webbing shall be protected against fraying.

(5) All metal parts shall be free from burrs and sharp edges.

(6) No restraining device, of any type, shall be considered to be in compliance with this rule, which is designed or constructed so as to be likely to cause injury to the occupant of a motor vehicle in the event of collision, upset, or emergency deceleration of the motor vehicle.

History: 1954 ACS 12, p. 5, Eff. Nov. 21, 1957.

R 28.904 Identification.

Rule 4. Each belt shall be provided with permanent marks of identification showing the manufacturer's name or trademark and the model number or type designation on each half of the assembly. The buckle shall be stamped or molded with either the buckle or the assembly manufacturer's markings. The required markings shall be in legible letters at least 1/16 inch in height on metal or rigid plastic parts and 3/16 inch on soft materials.

History: 1954 ACS 12, p. 6, Eff. Nov. 21, 1957.

R 28.905 Instructions.

Rule 5. Detailed instructions as to the proper method of installation, use, and care of safety belts and other restraining devices shall be included with each belt or set of belts or other restraining devices sold or installed for use in a motor vehicle. This information shall include the recommended manner for use, adjustment, and cleaning of the safety belt or restraining devices and a caution against severe loss of strength caused by bleaching or redyeing of the material.

History: 1954 ACS 12, p. 6, Eff. Nov. 21, 1957.

R 28.906 Test requirements.

Rule 6. (1) Webbing tests:

(a) Tensile strength of the webbing shall not be less than 2,250 pounds when tested as required in subrule (1)(b).

(b) Tests of webbing used in safety belt assemblies shall be conducted on samples which are in equilibrium with an atmosphere having a relative humidity of not more than 67% and a temperature of not more than 80 degrees Fahrenheit. The samples should be tested in a suitable textile testing machine. The sample should be mounted in the machine when the heads are 6 to 10 inches apart. The heads should separate at the maximum rate of 4 inches per minute under no load. The webbing width should be measured before and during application of the minimum strength load. Each test sample shall withstand its required minimum

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tensile strength load without failure for at least 3 seconds.

(c) Transverse stiffness of the webbing shall be such that no excessive curling or roping shall occur.

(d) The percent elongation of the webbing shall not exceed 25% under the specified tensile test loads.

(2) Belt assembly tests:

(a) Rated strength: The belt assembly, including webbing, buckle, and all attachment and adjustment fittings, shall have a minimum tensile strength under load applied in alignment with the anchored belt, of 3,000 pounds. If an attachment fitting is intended for anchoring separate ends from 2 belts, the fittings shall have a minimum strength of 3,000 pounds.

(b) Tensile test: The belt assembly shall be tested to determine compliance with the minimum rated strength requirement specified in subrule (2)(a). The belt assembly should be tested in a suitable testing machine, using the attachment fittings and other hardware provided by the seat belt supplier as part of the assembly. The end fittings being attached to jig anchorages spaced 10 to 20 inches apart horizontally, which are suitably attached to the stationary and movable heads of the testing machine. If the assembly includes adjustment adapters, the adapters should be positioned approximately halfway between the buckle and the end fittings. The buckle shall be in locked position. If a cam-type buckle is used it should be locked only by the static force of its spring and not by jamming or snapping it closed. At least 10 inches of the free end of the webbing should extend beyond the adjustment adapter, located at or near the buckle. If a metal-to-metal buckle is used, it should be checked to determine that there is no danger of latching the 2 parts together in any manner resulting in reduced strength or holding ability; it should not be possible to obtain partial engagement. The entire assembly should be in axial alignment with the heads of the testing machine and all precautions should be taken to avoid eccentric loading. The heads of the testing machine should separate at the maximum rate of 4 inches per minute under no load. The load should be applied through a 4-inch thick semicircular wooden form having a radius of not more than 8 inches. The curved portion of this form may provide a cut-out to accommodate the belt buckle and may be padded to simulate the belt wearer's clothing. Each sample shall be subjected at least to the rated strength specified in subrule (2)(a) (3,000 lbs.). At this point, the test may continue for buckle release force as outlined in subrule (2)(c). After removal of all load, the webbing and stitching should show no signs of failure or weakening and the metal components should show no permanent deformation which would result in malfunctioning of the assembly. The total slippage in the adjusting arrangement or the release mechanism should not exceed 1 inch.

(c) Test of release mechanism: Belt assemblies shall be tested to determine compliance with the maximum buckle release force requirements. The belt assemblies used in the rated minimum tensile strength test may be used for this test. The load applied as specified in subrule (2)(b) shall be reduced to a loop load of 250 pounds and while maintaining this reduced load, the release mechanism should be operable at a force of not more than 45 pounds applied in a manner and direction typical of that which would be used by a seat belt occupant. After the loads are removed, the release mechanism should show no signs of failure or sufficient permanent deformation to prevent the operation of the release.

(3) Corrosion test: Mounting hardware and attachments which will be exposed to the weather shall be tested for corrosion by a salt spray fog test according to the method of salt spray (fog) testing ASTM designation: B 117-54 T as published by

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the American Society for Testing Materials, 1916 Race Street, Philadelphia 3, Pennsylvania. The test will be for a period of 50 hours consisting of 2 periods of 24 hours' exposure each followed by 1-hour drying time. Evidence of more than a slight trace of corrosion, after the test is completed, will constitute a failure.

History: 1954 ACS 12, p. 6, Eff. Nov. 21, 1957.

R 28.907 Legal references.

Rule 7. (1) Authority: Section 710a, chapter 6, Act No. 300 of the Public Acts of 1949, as amended by Act No. 2, First Extra Session of 1955, being §257.710a of the Michigan Compiled Laws, provides:

No person shall sell, offer or keep for sale, or install for use in any motor vehicle to be operated on the highways of this state, any safety belt, safety restraining device, or attachments thereto as referred to in this section, unless of a type conforming to standards and specifications established by rules which have been established by the commissioner of the Michigan state police.

The rules established pursuant to the authorization given in this section shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being §§24.71 to 24.82, inclusive, of the Michigan Compiled Laws, and subject to Act No. 197 of the Public Acts of 1952, as amended, being §§24.101 to 24.110, inclusive, of the Michigan Compiled Laws.

(2) Penalties: Section 901, chapter 8, Act No. 300 of the Public Acts of 1949, as amended, being §257.901 of the Michigan Compiled Laws, provides:

(a) It shall be a misdemeanor for any person to violate any of the provisions of this act unless such violation is by this act or other law of this state declared to be a felony.

(b) Unless another penalty is in this act or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provisions of this act shall be punished by a fine of not more than $100.00 or by imprisonment in the county jail of the county where the offense is committed or in the Detroit house of correction for not more than 90 days, or by both such fine and imprisonment.

History: 1954 ACS 12, p. 7, Eff. Nov. 21, 1957.

UNIFORM TRAFFIC CODE FOR CITIES, TOWNSHIPS, AND VILLAGES

(By authority conferred on the department of state police by section 1 of Act No. 62 of the Public Acts of 1956 and sections 7, 9, and 153 of Act No. 380 of the Public Acts of 1965, being §§257.951, 16.107, 16.109, and 16.253 of the Michigan Compiled Laws)

CHAPTER 1—WORDS AND PHRASES DEFINED

R 28.1001 Sec. 1.1. Words and phrases.

The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this chapter. Whenever any word or phrase used herein is not defined herein, but is defined in Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws, the definition therein shall be deemed to apply to the words and phrases used herein.

Sec. 1.000. Act.

"Act" means Act No. 300 of the Public Acts of 1949, as amended.

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Sec. 1.001. Alley.

"Alley" means a minor thoroughfare, opened to public use, for the purpose of ingress and egress to service adjacent buildings.

Sec. 1.002. Authorized emergency vehicle.

"Authorized emergency vehicle" means vehicles of the fire department, police vehicles, ambulances, emergency vehicles of governmental departments, or vehicles of public service corporations and privately owned motor vehicles of volunteer and paid firemen as are authorized by the director of state police.

Sec. 1.003. Bicycle.

"Bicycle" means a device propelled by human power on which a person may ride, having 2 tandem wheels, either of which is over 20 inches in diameter. It includes pedal bicycles with helper motors rated less than 1 brake horsepower transmitted by friction and not by gear or chain, which produce only ordinary pedaling speeds not exceeding 20 miles an hour.

Sec. 1.003a. Bicycle path.

"Bicycle path" means a portion of a street or highway separated from the roadway by an open, unpaved space, or by a barrier, and established for the use of persons riding bicycles.

Sec. 1.003b. Bicycle lane.

"Bicycle lane" means a portion of a street or highway adjacent to the roadway and established for the use of persons riding bicycles.

Sec. 1.004. Bus.

"Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons, and a motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. It does not include a school bus or a bus equipped and used for living or camping purposes.

Sec. 1.005. Bus stand or bus stop.

"Bus stand or bus stop" means a fixed area in the roadway, parallel and adjacent to the curb, to be occupied exclusively by buses for layover in operating schedules, or by buses waiting for, loading, or unloading passengers.

Sec. 1.006. Business district.

"Business district" means the territory contiguous to a highway when 50% or more of the frontage thereon, for a distance of 300 feet or more, is occupied by buildings in use for business.

Sec. 1.007. Commercial vehicle.

"Commercial vehicle" includes motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares, or merchandise, and motor vehicles designed and used for drawing other vehicles, and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

Sec. 1.008. Crosswalk.

"Crosswalk" means:

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable highway.

(b) A portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Sec. 1.009. Curb loading zone.

"Curb loading zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Sec. 1.010. Driver.

"Driver" means a person who drives, or is in actual physical control of, a vehicle.

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Sec. 1.010a. Explosives.

"Explosives" means a chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in those proportions, quantities, or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

Sec. 1.010b. Farm tractor.

"Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

Sec. 1.010c. Flammable liquid.

"Flammable liquid" means a liquid which has a flash point of 70 degrees Fahrenheit or less, as determined by a tagliabue or equivalent closed-cup test device.

Sec. 1.011. Freight curb loading zone.

"Freight curb loading zone" means a space adjacent to a curb for exclusive use of vehicles during the loading or unloading of freight.

Sec. 1.012. Governmental unit.

"Governmental unit" means incorporated cities, incorporated villages, and townships.

Sec. 1.012a. Gross weight.

"Gross weight" means the weight of a vehicle without load plus the weight of a load thereon.

Sec. 1.012b. Implement of husbandry.

"Implement of husbandry" means a vehicle designed for agricultural purposes and used exclusively in agricultural operations. The transportation of seeds, fertilizers, or sprays between a place of storage or supply and farms in a trailer, which materials will be used to plant, fertilize, or spray, is an agricultural operation.

Sec. 1.013. Intersection.

"Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of 2 highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes 2 roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes 2 roadways 30 feet or more apart, then every crossing of 2 roadways of the highways shall be regarded as a separate intersection.

Sec. 1.014. Laned roadway.

"Laned roadway" means a roadway which is divided into 2 or more clearly marked lanes for vehicular traffic.

Sec. 1.015. Limited access highway.

"Limited access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only, and in such manner as may be determined by the public authority having jurisdiction over the highway, street, or roadway.

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Sec. 1.016. Motorcycle.

"Motorcycle" means every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, but excluding a tractor.

Sec. 1.016a. Motor-driven cycle.

"Motor-driven cycle" means a motorcycle with a motor that produces less than 5 gross brake horsepower, a motor scooter, and a bicycle with motor attached, except:

(a) A pedal bicycle with a helper motor rated less than 1 brake horsepower transmitted by friction and not by gear or chain, which produces only ordinary pedaling speeds not exceeding 20 miles an hour.

(b) A motorized wheelchair or other similar vehicle not exceeding 1,000 pounds gross weight, operated by a physically afflicted or disabled person.

Sec. 1.017. Motor vehicle.

"Motor vehicle" means a vehicle which is self-propelled and a vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Sec. 1.018. Official time standard.

"Official time standard" means whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in this governmental unit.

Sec. 1.019. Parking.

"Parking" means standing a vehicle, whether occupied or not, upon a highway when not loading or unloading, except when making necessary repairs.

Sec. 1.020. Parking meter zone.

"Parking meter zone" means an area adjacent to a parking meter set aside for the exclusive use of vehicles upon the deposit of a coin of United States currency in the parking meter as specified thereon.

Sec. 1.021. Passenger curb loading zone.

"Passenger curb loading zone" means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Sec. 1.022. Pedestrian.

"Pedestrian" means a person afoot.

Sec. 1.023. Person.

"Person" means a natural person, firm, copartnership, association, or corporation and their legal successors.

Sec. 1.024. Police officer.

"Police officer" means a sheriff or his deputy, village marshal, or an officer of the police department of cities, villages, townships, and officer of the Michigan state police.

Sec. 1.025. Private driveway or road.

(a) "Private driveway" means a piece of privately owned and maintained property used for vehicular traffic, but not normally used by the public.

(b) "Private road" means a privately owned and maintained road, allowing access to more than 1 residence or place of business, normally open to the public and on which persons besides owners located thereon may also travel.

Sec. 1.026. Railroad.

"Railroad" means a carrier of person or property upon cars, other than streetcars, operated upon stationary rails.

Sec. 1.027. Railroad train.

"Railroad train" means a steam engine, or an electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

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Sec. 1.028. Residence district.

"Residence district" means the territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of 300 feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

Sec. 1.029. Right-of-way.

"Right-of-way" means the privilege of the immediate use of the highway.

Sec. 1.030. Roadway.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel. In the event a highway includes 2 or more separate roadways, the term "roadway," as used herein, shall refer to a roadway separately, but not to all such roadways collectively.

Sec. 1.031. Safety zone.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected and so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sec. 1.031a. School bus.

"School bus" means a motor vehicle, except a station wagon, with a manufacturers' rated seating capacity of 8 or more children, owned by a public, private, or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school. It does not include buses operated by a municipally owned transportation system or by a common passenger carrier certificated by the public service commission.

Sec. 1.031b. School crossing.

"School crossing" means a crosswalk officially designated as a place to be used by schoolchildren for crossing a street or highway.

Sec. 1.031c. School-crossing guard.

"School-crossing guard" means a person, 18 years of age or older, employed by this governmental unit, or the school district, to guide and protect schoolchildren using a school crossing.

Sec. 1.031d. Semitrailer.

"Semitrailer" means a vehicle with or without motive power, other than a pole-trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Sec. 1.032. Sidewalk.

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of roadway, and the adjacent property lines intended for the use of pedestrians.

Sec. 1.032a. Special mobile equipment.

"Special mobile equipment" means a vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm tractors, road construction, or maintenance machinery, mobile office trailers, mobile tool shed trailers, mobile trailer units used for housing stationary construction equipment, ditchdigging apparatus, well-boring apparatus, and well-servicing apparatus.

Sec. 1.033. Stand or standing.

"Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while actually engaged in, receiving or discharging passengers.

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Sec. 1.034. Stop.

"Stop," when required, means complete cessation from movement.

Sec. 1.035. Stop or stopping.

"Stop or stopping," when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

Sec. 1.036. Street or highway.

"Street or highway" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Sec. 1.037. Taxicab.

"Taxicab" means a licensed public motor vehicle for hire, designated and constructed to seat not more than 10 persons and operating as a common carrier on call or demand.

Sec. 1.038. Taxicab stand.

"Taxicab stand" means a fixed area in the roadway set aside for taxicabs to stand or wait for passengers.

Sec. 1.039. Through highway.

"Through highway" means every state trunk line highway or any other highway at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same.

Sec. 1.039a. Tow-away zone.

"Tow-away zone" means a zone where no parking, stopping, or standing is permitted, as indicated by proper signs, and where vehicles parked in violation of the signs are towed away to keep the roadway clear for traffic movement.

Sec. 1.040. Traffic.

"Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using a highway for purposes of travel.

Sec. 1.041. Traffic-control devices.

"Traffic-control devices" means signs, signals, markings, and devices, not inconsistent with this ordinance, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

Sec. 1.042. Traffic-control signal.

"Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Sec. 1.043. Traffic division.

"Traffic division" means the traffic division of the police department of cities, villages, and townships, or, in the event a traffic division is not established, then the term, whenever used herein, shall be deemed to refer to the police department of the cities, villages, and townships.

Sec. 1.043a. Trailer.

"Trailer" means a vehicle, with or without motive power, other than a pole-trailer, designed for carrying property or persons and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Sec. 1.043b. U-turn.

"U-turn" means a turn made on a roadway or in an intersection by a vehicle for the purpose of reversing its direction of travel.

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Sec. 1.044. Vehicle.

"Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

History: 1954 ACS 13, p. 5, Eff. Feb. 14, 1958; 1954 ACS 54, p. 5, Eff. May 15, 1968; 1954 ACS 88, p. 16, Eff. Aug. 5, 1976.

R 28.1002 Sec. 1.2. Tenses.

The present tense includes the past and future tenses; and the future, the present.

History: 1954 ACS 13, p. 8, Eff. Feb. 14, 1958.

R 28.1003 Sec. 1.3. Number; gender.

The singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine and neuter, as requisite.

History: 1954 ACS 13, p. 8, Eff. Feb. 14, 1958.

R 28.1004 Sec. 1.4. "Shall" and "may."

"Shall" and "may" means shall is mandatory and may is permissive.

History: 1954 ACS 13, p. 8, Eff. Feb. 14, 1958.

CHAPTER 2—TRAFFIC ADMINISTRATION AND AUTHORITY

R 28.1101 Sec. 2.1. Police department; traffic duties.

It shall be the duty of the chief of police and the officers of the police department to enforce the street traffic regulations of this governmental unit and all the state vehicle laws applicable to street traffic in this governmental unit, to make arrests for traffic violations, to investigate accidents, to cooperate with the city traffic engineer and other officials of this governmental unit in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed by this ordinance and other traffic ordinances of this governmental unit.

History: 1954 ACS 13, p. 8, Eff. Feb. 14, 1958.

R 28.1102 Sec. 2.2. Authority of police directing traffic.

Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

History: 1954 ACS 13, p. 9, Eff. Feb. 14, 1958.

R 28.1103 Sec. 2.3. Authority of firemen directing traffic.

Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

History: 1954 ACS 13, p. 9, Eff. Feb. 14, 1958.

R 28.1104 Sec. 2.4. Authority of police to inspect vehicles.

Any police officer shall be authorized on reasonable grounds shown to stop any motor vehicle and inspect the same, and if any defects in equipment are found, to arrest the driver in the manner provided in this ordinance.

History: 1954 ACS 13, p. 9, Eff. Feb. 14, 1958.

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R 28.1105 Sec. 2.5. Authority to impound vehicles.

A member of the police department may remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department or otherwise maintained by this governmental unit, under the circumstances hereinafter enumerated. The necessary costs for the removal shall become a lien on the vehicle and the person into whose custody the vehicle is given may hold it until the expenses involved have been paid:

(a) When a vehicle is left unattended on a bridge, viaduct, causeway, subway, tube, or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When a vehicle on a street is so disabled as to constitute an obstruction to traffic, and the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.

(c) When a vehicle is left unattended on a street and is so parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

(d) When a vehicle is found being driven on the streets or highways in such an unsafe condition as to endanger persons or property.

(e) When a vehicle is left unattended on a street continuously for more than 48 hours and may be presumed to be abandoned.

(f) When the driver of the vehicle is taken into custody by the police department and the vehicle would thereby be left unattended upon the street.

(g) When removal is necessary in the interest of public safety because of fire, flood, storm, snow, or other emergency reason.

(h) When a vehicle is found parked in a "tow-away zone" designated by the traffic engineer and properly signposted.

History: 1954 ACS 13, p. 9, Eff. Feb. 14, 1958; 1954 ACS 54, p. 7, Eff. May 15, 1968; 1954 ACS 88, p. 21, Eff. Aug. 5, 1976.

R 28.1105a Sec. 2.5a. Authority to impound abandoned vehicles.

(1) The police department shall take into custody abandoned vehicles and abandoned junk vehicles found on a street or highway or any other place, whether public or private. For purposes of this section, a vehicle is considered an abandoned vehicle when:

(a) It has remained on a public street or highway, or other place open to travel by the public, for a period of 48 hours or more, without notification by the registered owner to the police department of the reason for leaving the vehicle in the public place.

(b) It has remained on private property for a period of 48 hours or more without the consent of the owner or lessee of the property, or for a period of 48 hours or more after the consent has been revoked.

(c) It has remained in a garage for more than 15 days without a contract of service, storage, or repair by the registered owner.

(2) A police officer may issue a citation to the registered owner of a vehicle which is found abandoned within this governmental unit. The citation shall state that the registered owner is charged with abandoning a vehicle.

(3) Abandoning a vehicle is a misdemeanor.

History: 1954 ACS 54, p. 7, Eff. May 15, 1968; 1954 ACS 88, p. 21, Eff. Aug. 5, 1976.

R 28.1106 Sec. 2.6. Notifying department of state of impounded vehicle.

(1) If the registered owner of an abandoned vehicle taken into custody by the police department has not claimed the vehicle and paid all charges due against it

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within 10 days, the police department shall notify the department of state on a form prescribed by that department.

(2) Disposition of an abandoned vehicle shall be made as provided in section 252 of the act.

History: 1954 ACS 13, p. 9, Eff. Feb. 14, 1958; 1954 ACS 88, p. 21, Eff. Aug. 5, 1976.

R 28.1107 Sec. 2.7. Vehicle deemed abandoned or junk; record and photograph; release of vehicle; definitions.

(1) When a vehicle found abandoned on a street or highway or any other place, whether public or private, has a value of less than $100.00, it shall be considered an abandoned vehicle.

(2) A vehicle is considered a junk vehicle when:

(a) It is 4 or more years old and has a fair market value of $100.00 or less.

(b) It is apparently inoperable and is extensively damaged, including a broken window or windshield, or missing wheels, tires, motor, or transmission.

(c) It does not display current registration plates.

(3) The police department, or a bonded licensed dealer, shall record the make of the vehicle and the serial number when available, shall detail the damage or missing equipment to substantiate the value of $100.00 or less, and shall photograph the vehicle at the place where it was abandoned. The police department shall retain the photograph for at least 2 years.

(4) Within 24 hours after it is determined that the vehicle was not stolen, the police department shall release the vehicle to a garage keeper, towing service, used vehicle parts dealer, or scrap metal processing facility. The person to whom the vehicle is released shall proceed as provided in section 252(d), (h), and (i) of the act.

(5) As used in subsection (d):

(a) "Scrap metal processing facility" means a business concern engaged primarily in the acquisition, processing, and shipment of ferrous and nonferrous scrap, the end product of which is the production of material for remelting purposes for steel mills, foundries, smelters, and refiners.

(b) "Used vehicle parts dealer" means a business concern engaged primarily in the acquisition of wrecked, damaged, inoperative or abandoned vehicles, or abandoned junk vehicles, the dismantling of these vehicles for the reclamation of reusable parts, and the preparation of remaining scrap materials for delivery to a scrap metal facility.

History: 1954 ACS 13, p. 9, Eff. Feb. 14, 1958; 1954 ACS 54, p. 7, Eff. May 15, 1968; 1954 ACS 88, p. 21, Eff. Aug. 5, 1976.

R 28.1108 Sec. 2.8. Citations; definition; numbering; form.

As used in the following sections a "citation" means a complaint or notice upon which a police officer shall record an occurrence involving 1 or more vehicle law violations by the person cited. Each citation shall be numbered consecutively, be in such form as determined by the secretary of state, the attorney general, the state court administrator and the director of the department of state police and shall consist of the following parts:

(a) The original which shall be a complaint or notice to appear by the officer and filed with the court.

(b) The first copy which shall be the abstract of court record.

(c) The second copy which shall be retained by the police department.

(d) The third copy which shall be delivered to the alleged violator.

With prior approval of such state officials, the citation may be appropriately modified as to content or number of copies to accommodate law enforcement

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and local court procedures and practices. Use of this citation for other than moving violations is optional.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 7, Eff. May 15, 1968.

R 28.1109 Sec. 2.9. Issuance of citation books.

The police chief shall issue citation books to each police officer of his department whose duties may or will include traffic duty or traffic law enforcement. The police chief shall obtain a receipt from such officer to whom a citation book has been issued upon a form also created by such officials.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 8, Eff. May 15, 1968.

R 28.1110 Sec. 2.10. Issuance of citations.

(a) Whenever a person is arrested without a warrant for any violation of the act, punishable as a misdemeanor, or of a provision of this ordinance substantially corresponding to any provision of the act, under conditions not referred to in sections 5.4, 5.4a, 5.14, 5.15 and 5.16 of this ordinance, and sections 617 and 619 and subdivisions 1, 2 and 3 of section 727 of the act, the arresting officer shall prepare as soon as possible and as completely as possible, an original and 3 copies of a written citation to appear in court containing the name and address of such person, the offense charged, and the time and place when and where such person shall appear in court. The officer shall inform the offender of the violation and shall give the third copy of the citation to the alleged offender. If such arrested person so demands, he shall be taken before a magistrate or probate court having jurisdiction in lieu of being given such citation.

(b) The time specified in the citation to appear shall be within a reasonable time after such arrest unless the person arrested shall demand an earlier hearing.

(c) The place specified in the citation to appear shall be before a magistrate having jurisdiction over the alleged offense charged in the citation.

(d) Appearance may be made in person, by representation or by mail. When appearance is made by representation or mail, the magistrate may accept the plea of guilty or not guilty for purposes of arraignment, with the same effect as though the person personally appeared before him. The magistrate, by giving 5 days' notice of the date of appearance, may require appearance in person at the time and place designated in the citation.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 8, Eff. May 15, 1968.

R 28.1111 Sec. 2.11. Nonresidents; arraignments and recognizances.

When any person not a resident of this state shall be arrested without warrant for any violation of the act, under conditions not referred to in section 727 of the act, or of a provision of this ordinance under conditions not referred to in section 2.17c, the officer making such arrest shall upon demand of such arrested person forthwith take such person before a magistrate having jurisdiction to answer to the complaint made against him. If no magistrate is available or such immediate trial cannot be had, the person so arrested may recognize to such officer for his appearance by leaving with him a guaranteed appearance certificate or a sum of money not to exceed $25.00.

(a) The officer making such arrest shall give a receipt to the person arrested for the guaranteed appearance certificate or moneys so deposited with him together with a written citation as hereinbefore provided.

(b) If the offender fails to appear as therein required, such guaranteed appearance certificate or deposit shall be forfeited as in other cases of default in bail in addition to any other penalty provided in chapter 6 of the act.

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(c) The officer taking a certificate or deposit shall within 48 hours thereafter deliver the same to the magistrate named in the citation together with a report of the facts relating to such arrest, and failure to make such report and deliver such deposit shall be deemed embezzlement of public money.

(d) "Guaranteed appearance certificate" means any card or certificate containing a printed statement that a surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate, and that such company will, if such person fails to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed $200.00.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 8, Eff. May 15, 1968.

R 28.1112 Sec. 2.12. Fees.

Notwithstanding any provision of law to the contrary, any officer making an arrest under chapter 6 of the act, without a warrant, except under paragraphs 1, 2 and 3 of section 727 of the act shall not be entitled to any fees for making such arrest and the magistrate shall be entitled to a fee of $2.00 where no trial on the merits takes place in proceedings under sections 223, 225, 228, 311, 315, 672, 673, 674, and 675 of the act.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 9, Eff. May 15, 1968.

R 28.1113 Sec. 2.13. Misconduct of officers and magistrates.

Any officer or magistrate violating any of the provisions of sections 2.8 to 2.17a shall be guilty of misconduct in office and shall be subject to removal from office.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 9, Eff. May 15, 1968.

R 28.1114 Sec. 2.14. Citations to drivers in accidents.

(a) A police officer may issue a citation to a person who is a driver of a motor vehicle involved in an accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed an offense under this ordinance in connection with the accident. The officer shall prepare an original and 3 copies of the citation, setting forth the name and address of such person, the offense that may be charged against him and the time and place of the appearance of such person in court. The citation shall inform such person of the office, bureau or department to which requests for a change or adjournment of the court date must be made.

(b) A police officer may issue a citation to any driver of a motor vehicle involved in an accident when, based upon personal investigation, the officer has reasonable grounds to believe that an offense has been committed under this ordinance in connection with the accident. The officer shall prepare an original and 3 copies of the citation, setting forth the name and address of such person, the offense that may be charged against the respondent and the time and place of the appearance of such driver in court. The citation shall inform such driver of the office, bureau or department to which requests for a change or adjournment of the court date must be made. This citation shall in printed form, prominently displayed, inform the person that such citation is not a criminal complaint, warrant or ticket of arrest. The driver of the motor vehicle who receives a citation under this subsection shall be paid regular witness fees by the court for each day he appears in court in compliance with such citation.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 9, Eff. May 15, 1968.

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R 28.1115 Sec. 2.15. Disposition of citations.

(a) At or before the completion of his tour of duty a police officer to whom a citation book has been issued and who has recorded the occurrence of a vehicle law violation upon a citation shall deliver to his police chief or to the person duly authorized by him all copies of such citation duly signed. The police chief or person authorized by him shall deposit the original of the citation, together with the copy designated for the department of state's motor vehicles record, with the court having jurisdiction over the offense not later than 2 days after the date of the citation, Sundays and legal holidays excepted.

(b) If a police officer arrests any person without a warrant for any vehicle law violation, such arrest shall be noted on the citation.

(c) If a citation is spoiled, mutilated or voided, it shall be indorsed with a full explanation thereof by the police officer voiding such citation, and shall be duly accounted for to his police chief or authorized designee.

(d) Nothing in this ordinance shall prevent a person other than a police officer from applying for a criminal complaint for a vehicle law violation, and such person need not show that the alleged offender has been issued a citation in connection with such offense.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 9, Eff. May 15, 1968.

R 28.1116 Sec. 2.16. Accountability for citations.

The various officers and administrators of this governmental unit shall establish procedures as provided by instructions from the state treasurer to insure accountability in the processing of citations. The record showing the issuance and subsequent disposition shall be maintained complete for at least the most recent 5-year period and such records and notices shall be available for public inspection.

History: 1954 ACS 13, p. 10, Eff. Feb. 14, 1958; 1954 ACS 54, p. 10, Eff. May 15, 1968.

R 28.1117 Sec. 2.17. Audit of citation records.

A complete audit of such citation records shall be made at least annually by the appropriate fiscal officer of the governmental agency to which the traffic enforcement agency is responsible; and may be audited by the state treasurer if deemed by him to be necessary.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958; 1954 ACS 54, p. 10, Eff. May 15, 1968.

R 28.1117a Sec. 2.17a. Falsification or illegal disposition of citations; penalties.

Whoever knowingly falsifies a citation or copies thereof or a record of the issuance of same, or disposes of such citation, copy or record, in a manner other than as required in this ordinance, or attempts so to falsify or dispose, or attempts to incite or procure another so to falsify or dispose shall be fined not more than $500.00 or imprisoned in the county jail for a term not to exceed 1 year, or both.

History: 1954 ACS 54, p. 10, Eff. May 15, 1968.

R 28.1117b Sec. 2.17b. Citation of illegally parked vehicles.

When a motor vehicle without a driver is found parked or stopped in violation of any restriction imposed by ordinance of this governmental unit or by state law, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a traffic citation.

History: 1954 ACS 54, p. 10, Eff. May 15, 1968.

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R 28.1117c Sec. 2.17c. Procedure upon arrest for certain offenses.

(a) A person arrested without a warrant on a charge of violating section 5.14 of this ordinance, shall be taken, without unreasonable delay, before the magistrate or probate court having jurisdiction. If under existing circumstances it does not appear that releasing such person pending the issuance of a warrant will constitute a public menace, the arresting officer may issue a citation as provided in section 2.10 of this ordinance.

(b) A person arrested without a warrant on a charge of violating sections 5.15 or 5.16 of this ordinance shall be taken, without unreasonable delay, before the magistrate or probate court having jurisdiction.

(c) A person arrested without a warrant on a charge of driving a motor vehicle without a valid operator's or chauffeur's license in his immediate possession as provided in sections 5.62, 5.62a, 5.63, 5.64, and 5.66 of this ordinance, shall be taken, without unreasonable delay, before the magistrate or probate court having jurisdiction. If the arresting officer otherwise satisfactorily determines the identity of the person and the practicability of subsequent apprehension in the event of failure to voluntarily appear before a magistrate or probate court as directed, the officer may release the person from custody after issuing him a citation as provided in section 2.10 of this ordinance.

History: 1954 ACS 54, p. 10, Eff. May 15, 1968.

R 28.1117d Sec. 2.17d. Sworn complaints.

When under the provisions of sections 2.8 to 2.17c of this ordinance an officer issues a citation, a magistrate may accept a plea of guilty or not guilty upon the citation, without the necessity of a sworn complaint but the officer shall sign the complaint before the magistrate makes his docket return thereon. If the alleged offender pleads not guilty, no further proceedings may be had until a sworn complaint is filed with the magistrate. A warrant for arrest shall not issue for an offense under this ordinance until a sworn complaint is filed with the magistrate.

History: 1954 ACS 54, p. 10, Eff. May 15, 1968.

R 28.1118 Sec. 2.18. Records of traffic violations; warrants.

The chief of police shall also maintain or cause to be maintained a record of all warrants issued on said traffic violation charges and which are delivered to the police department for service, and of the final disposition of all such warrants.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958.

R 28.1119 Sec. 2.19. Traffic accident reports.

The police department shall maintain a suitable system of filing traffic accident reports. Accident reports, or cards referring to them, shall be filed alphabetically by location. Such reports shall be available for the use and information of the traffic engineer.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958.

R 28.1120 Sec. 2.20. Use of accident reports.

The police department shall receive and properly file all accident reports made to it under state law, or under any ordinances of this governmental unit. The reports required by this ordinance shall not be available for use in any court action, but shall be available to governmental agencies for the purpose of furnishing statistical information as to the number and cause of accidents.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958.

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R 28.1121 Sec. 2.21. Official form for accident reports.

The police department shall use the official form prescribed by the director of the department of state police in reporting accidents to him required by the act or sections 5.3 and 5.6 of this ordinance.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958; 1954 ACS 54, p. 10, Eff. May 15, 1968.

R 28.1122 Sec. 2.22. Traffic accident studies.

Whenever the accidents at any particular location become numerous, the police department shall cooperate with the traffic engineer in conducting studies of such accidents and determine remedial measures.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958.

R 28.1123 Sec. 2.23. Driver's files.

The police department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions, and complaints reported for each driver except those concerning standing or parking, which shall be filed alphabetically under the name of the driver concerned. Such records shall accumulate during at least a 5-year period and from that time on such records shall be maintained complete for at least the most recent 5-year period.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958.

R 28.1124 Sec. 2.24. Annual traffic safety report.

The police department shall annually prepare a traffic report which shall be filed with the executive head of this governmental unit and the ordinance making body of this governmental unit. Such report shall contain information on traffic matters in this city as follows:

(a) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;

(b) The number of traffic accidents investigated and other pertinent data on the safety activities of the police;

(c) The plans and recommendations of the police department for future traffic safety activities.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958.

R 28.1125 Sec. 2.25. Traffic engineer.

The office of traffic engineer is hereby established. The traffic engineer shall be appointed in a manner prescribed by the ordinance making body and shall exercise the powers and duties provided in this ordinance in a manner consistent with prevailing traffic engineering and safety practices and in the best interests of this governmental unit. In the absence of the appointment of a traffic engineer the authority of such engineer shall be vested in the chief of police.

History: 1954 ACS 13, p. 11, Eff. Feb. 14, 1958.

R 28.1126 Sec. 2.26. Duties of traffic engineer.

It is the general duty of the traffic engineer to plan and determine the installation and proper timing and maintenance of traffic-control devices; to conduct engineering analyses of traffic accidents and to devise remedial measures; to conduct engineering investigations of traffic conditions; to plan the operation of traffic on the streets of this governmental unit, including parking areas; to cooperate with other officials of this governmental unit in the develop-

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ment of ways and means to improve traffic conditions; and to carry out the additional powers and duties imposed by the ordinances of this governmental unit.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1127 Sec. 2.27. Emergency regulations.

The chief of police is hereby empowered to make and enforce temporary regulations to cover emergencies or special conditions. No such temporary regulation shall remain in effect for more than 90 days.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1128 Sec. 2.28. Testing traffic-control devices.

The traffic engineer may test or experiment with traffic-control devices under actual conditions of traffic in accordance with procedures contained in the Michigan manual of uniform traffic-control devices.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958; 1954 ACS 88, p. 22, Eff. Aug. 5, 1976.

R 28.1129 Sec. 2.29. Through streets.

Where any through street is duly established, it shall be the duty of the traffic engineer to place and maintain a stop sign on each and every street intersecting such through street or intersecting that portion thereof described and designated as such by any ordinance of this governmental unit unless traffic at any such intersection is controlled at all times by traffic-control signals, provided, however, that at the intersection of 2 such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the traffic engineer upon the basis of an engineering and traffic study.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1130 Sec. 2.30. Intersections where stop required.

The traffic engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at 1 or more entrances to any such stop intersection, and shall erect a stop sign at every such place where a stop is required.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1130a Sec. 2.30a. Stop signs at railroad grade crossings.

The traffic engineer is hereby authorized to designate certain grade crossings of railways by highways as "stop" crossings, and to erect signs thereat notifying drivers of vehicles upon any such highway to come to a complete stop before crossing such railway tracks, and whenever any such crossing is so designated and signposted, it shall be unlawful for the driver of any vehicle to fail to stop within 50 feet but not less than 10 feet from such railway tracks before traversing such crossings. The erection of, or failure to replace or maintain, such signs shall not be a basis for any action of negligence against local authorities.

History: 1954 ACS 54, p. 11, Eff. May 15, 1968.

R 28.1131 Sec. 2.31. Yield right-of-way signs.

The traffic engineer may determine and designate intersections where conditions warrant requiring vehicles to yield *the right-of-*way to cross vehicles and to

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determine whether vehicles shall yield the right-of-way at 1 or more entrances to any such intersection. A yield sign shall be erected at every place where approaching vehicles are required to yield the right-of-way.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958; 1954 ACS 54, p. 11, Eff. May 15, 1968.

R 28.1132 Sec. 2.32. Parking adjacent to schools.

The traffic engineer is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1133 Sec. 2.33. Parking prohibited on narrow streets.

The traffic engineer is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon 1 side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1134 Sec. 2.34. Standing or parking on 1-way streets.

The traffic engineer is authorized to erect signs upon the left-hand side of any 1-way street to prohibit the standing or parking of vehicles upon the left-hand side of such street.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1135 Sec. 2.35. Standing or parking on 1-way roadways.

The traffic engineer is authorized to determine when standing or parking may be permitted upon the left-hand side of any 1-way roadway and to erect signs giving notice thereof.

History: 1954 ACS 13, p. 12, Eff. Feb. 14, 1958.

R 28.1136 Sec. 2.36. No stopping, standing, or parking zones.

The traffic engineer may determine and designate zones where stopping, standing or parking is prohibited due to hazardous conditions which may exist or where conditions exist which would cause undue delay to traffic. Such zones shall be designated by posting proper signs at such locations, and the distance between the signs shall not exceed 100 feet.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958; 1954 ACS 54, p. 11, Eff. May 15, 1968.

R 28.1136a Sec. 2.36a. Tow-away zones.

The traffic engineer may establish tow-away zones as follows:

(a) At locations already designated as no stopping, standing, or parking zones.

(b) On streets where the normal width of the roadway is reduced by a building or buildings or by a construction project.

(c) At or adjacent to streets and locations where safety and traffic movement is affected by occurrence of a public event.

(d) Such tow-away zones shall be designated by posting signs reading "Tow-away zone." Such signs shall be posted independently or as an extra panel attached below the posted signs prohibiting stopping, standing or parking at the location. The distance between such posted signs shall not exceed 100 feet.

History: 1954 ACS 54, p. 11, Eff. May 15, 1968.

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R 28.1136b Sec. 2.36b. Traffic-control devices on private property.

(1) With the consent, or at the request, of the owners or persons in charge of private property open to the general public for travel, the traffic engineer may determine controls of the movement of vehicles and pedestrians, and the parking of vehicles, needed for the safety and convenience of the public and users of the property. He shall place and maintain whatever traffic-control devices are necessary to give notice of those determinations.

(2) A person who violates the directions of the traffic-control devices is guilty of a misdemeanor.

History: 1954 ACS 54, p. 11, Eff. May 15, 1968; 1954 ACS 88, p. 22, Eff. Aug. 5, 1976.

R 28.1137 Sec. 2.37. Curb loading zones.

The traffic engineer is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which such zones shall be restricted for loading purposes.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1138 Sec. 2.38. Permits for curb loading zones.

The traffic engineer shall not hereafter designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for 2 signs to indicate the ends of each such zone. The traffic engineer upon granting a permit and issuing such signs shall collect from the applicant and deposit with the treasurer a service fee, in the amount specified by resolution of the ordinance making body, for year or fraction thereof. The governmental unit may by regulations impose conditions upon the use of such signs and for reimbursement for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of 1 year.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1139 Sec. 2.39. Public carrier stands.

The traffic engineer is hereby authorized to establish bus stops, bus stands, taxicab stands, and stands for other passenger common-carrier motor vehicles on such public streets, in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs, which he shall cause to be erected.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1140 Sec. 2.40. Permit for loading or unloading at an angle to the curb.

The traffic engineer is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1141 Sec. 2.41. Parking meter zones.

The traffic engineer is hereby authorized, subject to the approval of the ordinance making body, to *determine and designate* metered parking zones, and

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to install and maintain as many parking meters as necessary in said metered parking zones, where it is determined that the installation of parking meters shall be necessary to aid in the regulation, control, and inspection of the parking of vehicles.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1142 Sec. 2.42. Angle parking zones.

The traffic engineer shall determine the location of angle parking zones, and shall erect and maintain appropriate signs indicating the same and giving notice thereof, except that no such zones shall be established on state trunk line highways.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1143 Sec. 2.43. Duty to erect parking signs.

It shall be the duty of the traffic engineer to erect and maintain appropriate signs giving notice of regulations relating to the stopping, standing, or parking of vehicles.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1144 Sec. 2.44. Speed restrictions.

The traffic engineer is hereby authorized to establish, increase, or decrease speed regulations provided for in this ordinance, and to erect signs giving notice thereof, as follows:

(a) Establish prima facie lawful speed limits on streets outside of business or residential districts, which shall in no case be less than 25 miles per hour.

(b) Increase the prima facie speed limits on through streets within business or residential districts.

(c) Establish the prima facie speed limit in public parks, alleys, and cemeteries.

History: 1954 ACS 13, p. 13, Eff. Feb. 14, 1958.

R 28.1145 Sec. 2.45. Authority to place turning markers.

The traffic engineer is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958.

R 28.1146 Sec. 2.46. Turn signs.

The traffic engineer may determine the locations at which drivers of vehicles shall not make a right, left, or U-turn, and shall place proper signs at those locations. The making of those turns may be prohibited between certain hours of the day and permitted at other times. At those locations, the differences shall be plainly shown on the signs, or the signs may be removed when turns are permitted.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958; 1954 ACS 88, p. 22, Eff. Aug. 5, 1976.

R 28.1147 Sec. 2.47. Authority to sign 1-way streets and alleys.

Where any 1-way street or alley is duly established, the traffic engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful

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traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958.

R 28.1148 Sec. 2.48. Authority to restrict direction of movement on streets during certain periods.

The traffic engineer is hereby authorized to determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic shall proceed in 1 direction during 1 period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958.

R 28.1149 Sec. 2.49. Authority to establish no passing zones.

The traffic engineer is hereby authorized to designate no passing zones on streets or parts of streets and shall place and maintain official signs or markings on the roadway to indicate such zones.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958.

R 28.1150 Sec. 2.50. Truck routes; road limits.

The traffic engineer is hereby authorized to prohibit the use of designated streets by trucks or other commercial vehicles, and to impose limitations as to the weight of vehicles on designated streets, but said prohibitions and limitations shall not become effective until notice thereof is given by means of official signs.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958.

R 28.1151 Sec. 2.51. Prohibiting certain traffic.

The traffic engineer may, after an engineering and traffic investigation, designate any heavily traveled street under his jurisdiction from which is to be prohibited a class or kind of traffic found to be incompatible with the normal and safe movement of traffic. He shall erect appropriate traffic-control devices giving notice of the determination.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958; 1954 ACS 88, p. 22, Eff. Aug. 5, 1976.

R 28.1152 Sec. 2.52. Operating bicycle on sidewalk.

A person operating a bicycle on a sidewalk constructed for the use of pedestrians shall yield the right of way to a pedestrian and shall give an audible signal before overtaking and passing the pedestrian.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958; 1954 ACS 88, p. 22, Eff. Aug. 5, 1976.

R 28.1153 Sec. 2.53. Traffic control orders.

(a) The authority to regulate traffic contained in this ordinance shall be exercised by the traffic engineer by the issuance of traffic control orders which shall specify the rules and regulations adopted or established by him. Such traffic control orders shall become effective upon being filed with the clerk and upon erection of adequate signs or signals giving notice of the existence of such regulation, if signs or signals are required by the provisions of this ordinance pertaining to such regulation. Traffic control orders may be issued by the traffic engineer on his own authority *but when so issued shall* be known as temporary

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traffic control orders and shall not be effective after the expiration of 90 days from the date of filing, nor shall any such temporary traffic control order be renewed or extended except upon its approval by the ordinance making body. Permanent traffic control orders shall be issued by the traffic engineer, approved by the ordinance making body and filed with the clerk. Temporary orders shall become permanent orders upon approval by the ordinance making body, but notice of such approval shall be filed with the clerk as in the case of an original traffic control order. All such orders and any action modifying or repealing such orders, shall be kept in a separate book by the clerk to be known as the traffic control order book.

(b) Copies of traffic control orders certified by the clerk to be a true transcript compared by him with the original in his office, shall be evidence in all courts, and proceedings in like manner as the original would be if produced. If it shall appear that a traffic control sign, signal, or device conforming to the provisions of this ordinance was erected or in place when the alleged violation of this ordinance occurred, such showing shall be prima facie evidence of the existence of a lawful traffic control order authorizing such traffic control, sign, signal or device, and it shall be unnecessary for the prosecution to affirmatively show the existence of a valid traffic control order in such cases, unless and until such presumption is rebutted by competent evidence.

History: 1954 ACS 13, p. 14, Eff. Feb. 14, 1958.

R 28.1154 Sec. 2.54. Clerk.

The following duties prescribed for the clerk shall relate to that person who is elected or appointed to the office of clerk of this governmental unit.

History: 1954 ACS 13, p. 15, Eff. Feb. 14, 1958.

R 28.1155 Sec. 2.55. Clerk to issue permit for loading or unloading at an angle to the curb.

The clerk, upon receipt of a written application, shall issue, subject to the approval of the traffic engineer, permits to back a vehicle at right angles to the curb for the purpose of loading or unloading of merchandise or material. Such permits shall be subject to the terms and conditions stated thereon. Every such permit shall expire at the end of each calendar year, but may be reissued.

History: 1954 ACS 13, p. 15, Eff. Feb. 14, 1958.

R 28.1156 Sec. 2.56. Clerk to issue permit for curb loading zones.

The clerk, upon receipt of a written application, shall issue, subject to the approval of the traffic engineer, permits for curb loading zones. Such permits shall be subject to the terms and conditions stated thereon.

History: 1954 ACS 13, p. 15, Eff. Feb. 14, 1958.

R 28.1157 Sec. 2.57. Clerk to provide traffic citation forms.

Traffic citation forms for notifying alleged violators to appear and answer to charges of violating traffic laws and ordinances in serially numbered sets shall be provided by the clerk in books and in form as provided in sections 727a, 727b, and 727c of the act, and as provided in sections 2.8 and 2.9 of this ordinance, as amended.

History: 1954 ACS 13, p. 15, Eff. Feb. 14, 1958; 1954 ACS 54, p. 11, Eff. May 15, 1968.

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R 28.1158 Sec. 2.58. Issuance and record of traffic citation books.

The clerk shall be responsible for the issuance of traffic citation books to the chief of police and shall maintain a record of each book.

History: 1954 ACS 13, p. 15, Eff. Feb. 14, 1958; 1954 ACS 54, p. 11, Eff. May 15, 1968; 1954 ACS 88, p. 22, Eff. Aug. 5, 1976.

CHAPTER 3—OBEDIENCE TO TRAFFIC REGULATIONS

R 28.1201 Sec. 3.1. Required obedience to traffic ordinance.

It is a violation of this ordinance for any person to do any act forbidden or fail to perform any act required herein.

Sec. 3.01. Parental responsibility.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this ordinance.

History: 1954 ACS 13, p. 15, Eff. Feb. 14, 1958.

R 28.1202 Sec. 3.2. Obedience to police and fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer, or member of the fire department at the scene or in the immediate vicinity of a fire, who is vested with authority under this ordinance to direct, control, or regulate traffic.

History: 1954 ACS 13, p. 15, Eff. Feb. 14, 1958.

R 28.1202a Sec. 3.2a. Failure to stop upon police signal.

A driver of a motor vehicle, who is given by hand, voice, emergency light or siren a visual or audible signal by a police officer, acting in the lawful performance of his duty, directing the driver to bring his motor vehicle to a stop, and who willfully fails to obey such direction, by increasing his speed, extinguishing his lights, or otherwise attempting to flee or elude the officer shall be punished, upon conviction, as provided in section 9.3 of this ordinance. The officer giving the signal shall be in uniform; and a vehicle driven at night shall be adequately identified as an official police vehicle.

History: 1954 ACS 54, p. 11, Eff. May 15, 1968.

R 28.1203 Sec. 3.3. Persons propelling push carts or riding animals to obey traffic regulations.

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this ordinance applicable to the driver of any vehicle, except those provisions of this ordinance which by their very nature can have no application.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958.

R 28.1204 Sec. 3.4. Use of coasters, roller skates, and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958.

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R 28.1205 Sec. 3.5. Public employees to obey traffic regulations.

The provisions of this ordinance applicable to the drivers of vehicles upon the streets and highways shall apply to the drivers of all vehicles owned by or used in the service of the United States, this state or any county, city, town, district, or any other political subdivision of this state, subject to such specific exceptions as are set forth in this ordinance or in the state statutes.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958.

R 28.1206 Sec. 3.6. Authorized emergency vehicles.

The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in section 3.7, but subject to the conditions stated in sections 3.7, 3.8 and 3.9.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958; 1954 ACS 54, p. 12, Eff. May 15, 1968.

R 28.1207 Sec. 3.7. Privileges of authorized emergency vehicles.

The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this ordinance;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limits so long as he does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions;

(e) Drive through a funeral or other authorized procession.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958.

R 28.1208 Sec. 3.8. Signal required.

The privileges granted to an authorized emergency vehicle in sections 3.6 and 3.7 of this ordinance shall apply only when the driver of the vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least 1 lighted lamp displaying a flashing, oscillating or rotating red or blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle. Only authorized emergency vehicles operated as police vehicles which are publicly owned or maintained or, if privately owned, at least 50% of the annual total miles traveled by such vehicle shall be driven on official law enforcement business on behalf of the state or a political subdivision thereof and for which reimbursement is made by the state or such subdivision, shall be equipped with a flashing, oscillating or rotating blue light which when activated shall be visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle except where it is deemed advisable not to equip such authorized emergency vehicle operating as a police vehicle with a flashing, oscillating or rotating light.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958; 1954 ACS 54, p. 12, Eff. May 15, 1968.

R 28.1209 Sec. 3.9. Authorized emergency vehicle driver responsibility.

The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons,

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nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958.

R 28.1210 Sec. 3.10. Workers on surface of highways.

The provisions of this ordinance that are the same as the provisions of chapter 6 of the act shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a street but shall apply to such persons and vehicles when traveling to or from such work. The provisions of chapter 6 of the act governing the size and width of vehicles shall not apply to vehicles owned by public highway authorities when such vehicles are proceeding to or from work on public highways.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958; 1954 ACS 54, p. 12, Eff. May 15, 1968.

R 28.1211 Sec. 3.11. Ordinance effective on streets.

The provisions of this ordinance relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets except where a different place is specifically referred to in a given section.

History: 1954 ACS 13, p. 16, Eff. Feb. 14, 1958.

R 28.1212 Sec. 3.12. Enforcing violation on private road.

Notwithstanding any other provision of law, a police officer may enter upon a private road to enforce violations of this code.

History: 1954 ACS 88, p. 22, Eff. Aug. 5, 1976.

CHAPTER 4—TRAFFIC CONTROL DEVICES

R 28.1301 Sec. 4.1. Authority to install traffic-control devices.

The traffic engineer shall place and maintain, or remove, traffic-control signs, signals, lane markings, and other devices and shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, when and as required under the traffic ordinance of this governmental unit to indicate and to carry out the provisions of said ordinance, of this governmental unit and under state law, to regulate, warn or guide traffic.

History: 1954 ACS 13, p. 17, Eff. Feb. 14, 1958.

R 28.1302 Sec. 4.2. Manual and specifications for traffic-control devices.

All traffic-control signs, signals, and devices shall conform to the official Michigan manual of uniform traffic control devices. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout this governmental unit. All traffic-control devices so erected and not inconsistent with the provisions of state law or this ordinance shall be official traffic-control devices.

History: 1954 ACS 13, p. 17, Eff. Feb. 14, 1958.

R 28.1303 Sec. 4.3. Limit to authority.

Notwithstanding the authority granted to the traffic engineer under this ordinance no traffic-control device shall be placed or maintained upon any trunk line highway under the jurisdiction of the state highway commissioner except by the latter's permission or upon any county road without the permission of the county road commission having jurisdiction thereof.

History: 1954 ACS 13, p. 17, Eff. Feb. 14, 1958.

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R 28.1304 Sec. 4.4. Obedience to official traffic-control devices.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances of this governmental unit, unless otherwise directed by a police officer.

History: 1954 ACS 13, p. 17, Eff. Feb. 14, 1958.

R 28.1304a Sec. 4.4a. Avoiding traffic-control device.

The driver of a vehicle shall not avoid obedience to an official traffic-control device by driving on or through private property or on or through public property which is not a street or highway.

History: 1954 ACS 88, p. 23, Eff. Aug. 5, 1976.

R 28.1305 Sec. 4.5. When traffic devices required for enforcement purposes.

No provision of this ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

History: 1954 ACS 13, p. 17, Eff. Feb. 14, 1958.

R 28.1306 Sec. 4.6. Traffic-control signal placement and legend.

Whenever traffic is controlled by traffic-control signals, at least 1 signal shall be located over the traveled portion of the roadway so as to give drivers a clear indication of the right-of-way assignment from their normal positions approaching the intersection. The vehicle signals shall exhibit different colored lights successively 1 at a time, or with arrows. The following colors shall be used and said terms and lights shall indicate and apply to drivers of vehicles as follows:

(a) Green indication.

Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Steady yellow indication.

Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection or at a limit line when marked, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(c) Steady red indication.

Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or at a limit line when marked, or if none, then before entering the intersection and shall remain standing until a green indication is shown.

(d) Arrow indications.

(1) Green arrow (steady): Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Vehicle traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

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(2) Red arrow (flashing): When a red arrow is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked or if none then before entering the intersection and shall then be privileged to make the movement indicated if no interference is offered pedestrians or vehicles lawfully on the highway.

History: 1954 ACS 13, p. 17, Eff. Feb. 14, 1958; 1954 ACS 54, p. 12, Eff. May 15, 1968.

R 28.1307 Sec. 4.7. Nonintersection signals.

In the event a traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any sign or marking the stop shall be made at the signal.

History: 1954 ACS 13, p. 18, Eff. Feb. 14, 1958.

R 28.1308 Sec. 4.8. Pedestrian signals.

Whenever special pedestrian-control signals are not utilized, the regular traffic-control signals as indicated in sections 4.6 and 4.7 shall apply to pedestrians as follows:

(a) Green indication. Pedestrians facing such signal may proceed across the roadway within any marked or unmarked crosswalk.

(b) Steady yellow indication. Pedestrians facing such signal are advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(c) Steady red indication. Pedestrians facing such signal shall not enter the highway unless they can do so safely and without interfering with any vehicular traffic.

(d) Red with arrow. Pedestrians facing such signal shall not enter the highway unless they can do so safely without interfering with any vehicular traffic.

History: 1954 ACS 13, p. 18, Eff. Feb. 14, 1958; 1954 ACS 54, p. 13, Eff. May 15, 1968.

R 28.1309 Sec. 4.9. Special pedestrian signals.

Whenever special pedestrian-control signals are installed they shall be placed at the far end of each crosswalk and shall indicate a "walk" or "don't walk" interval. These special signals shall apply to pedestrians only to the exclusion of any regular traffic-control signal or signals which may be present at the same location.

(a) Walk interval—Pedestrians facing such signal may proceed across the highway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(b) Don't walk (steady burning or flashing) interval—No pedestrian shall start to cross the highway in the direction of such signals, but any pedestrian who has partially completed his crossing on the walk interval of such signal shall proceed to a sidewalk or safety island while the don't walk interval of the signal is showing.

(c) Until January 1, 1969, but not on or after that date, the don't walk interval may be indicated by existing "Wait" signals.

History: 1954 ACS 13, p. 18, Eff. Feb. 14, 1958; 1954 ACS 54, p. 13, Eff. May 15, 1968.

R 28.1310 Sec. 4.10. Flashing signals.

Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

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(a) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

History: 1954 ACS 13, p. 19, Eff. Feb. 14, 1958.

R 28.1311 Sec. 4.11. Unauthorized sign, signal, marking, device, decoration, or banner.

(a) Except with authority of the traffic engineer, no person shall place, maintain, or display along any street or upon any structure in or over any street any sign, signal, marking, device, blinking, oscillating or rotating light or lights, decoration or banner which is or purports to be or is in imitation of or resembles or which can be mistaken for a traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. No person shall place, maintain or display along any street any blinking, oscillating or rotating light or lights sufficiently similar in color and design that they may be mistaken for the distinguishing lights authorized by law for emergency vehicles or that creates a hazard for the safety of drivers using said streets. Every such prohibited sign, signal, marking, device, decoration, or banner is hereby declared to be a public nuisance and the authority having jurisdiction over the street is hereby empowered to remove the same or cause it to be removed without notice.

(b) Decorations or banners which may be placed over the traveled portion of any street or highway shall be placed not closer than 10 feet on either side of traffic lights or signals and shall be so placed as to not obstruct a clear view of such traffic lights or signals.

History: 1954 ACS 13, p. 19, Eff. Feb. 14, 1958; 1954 ACS 25, p. 5, Eff. May 15, 1968.

R 28.1312 Sec. 4.12. Interference with traffic-control devices or railroad signs or signals.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

History: 1954 ACS 13, p. 19, Eff. Feb. 14, 1958.

R 28.1313 Sec. 4.13. Crosswalks.

The traffic engineer is hereby authorized to designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

History: 1954 ACS 13, p. 19, Eff. Feb. 14, 1958.

R 28.1314 Sec. 4.14. Safety zones.

The traffic engineer is hereby authorized to establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

History: 1954 ACS 13, p. 19, Eff. Feb. 14, 1958.

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R 28.1315 Sec. 4.15. Traffic lanes.

The traffic engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

History: 1954 ACS 13, p. 19, Eff. Feb. 14, 1958.

R 28.1316 Sec. 4.16. School crossings; designation; creation.

The traffic engineer may, after traffic and engineering studies and in consultation with the superintendent of the school district, designate appropriate crosswalks as school crossings, and create additional school crossings where they are considered necessary on streets or highways under his jurisdiction.

History: 1954 ACS 88, p. 23, Eff. Aug. 5, 1976.

R 28.1317 Sec. 4.17. School-crossing guards; duty periods; identifying clothing; signs.

(1) When school-crossing guards are assigned, they shall be stationed at school crossings during the times of day designated by the superintendent of the school district and the chief of the law enforcement agency having jurisdiction.

(2) When on duty, a school-crossing guard shall wear an outer vest of a color and style meeting the standards of the Michigan manual of uniform traffic-control devices. The school-crossing guard shall also hold a stop sign which conforms to the Michigan manual of uniform traffic-control devices for hand-held signs.

(3) When the school-crossing guards are assigned at designated school crossings, warning signs shall be erected in conformance with the Michigan manual of uniform traffic-control devices.

History: 1954 ACS 88, p. 23, Eff. Aug. 5, 1976.

R 28.1318 Sec. 4.18. School-crossing guards; selection; training; supervision.

(1) School-crossing guards shall be selected, trained, and supervised by the local law enforcement agency.

(2) School-crossing guards shall receive not less than 4 hours of instruction in job-related matters before assuming duties and 4 hours of annual review thereafter.

History: 1954 ACS 88, p. 23, Eff. Aug. 5, 1976.

R 28.1319 Sec. 4.19. School-crossing guard; failure to obey signal as violation; presumption.

(1) The driver of a motor vehicle who fails to stop at a school crossing when a school-crossing guard is in the crossing and is holding the stop sign in an upright position visible to approaching vehicular traffic, is guilty of a violation of section 4.4 of this code.

(2) In any proceeding for a violation of subsection (1) of this section, proof that the particular vehicle described in the citation, complaint, or warrant was in violation of subsection (1), together with proof that the defendant named in the citation, complaint, or warrant was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

History: 1954 ACS 88, p. 23, Eff. Aug. 5, 1976.

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R 28.1320 Sec. 4.20. "Bicycle paths" or "bicycle lanes"; establishment; traffic-control devices.

(1) When the traffic engineer, after a traffic survey and engineering study, determines there is a need, he may establish a part of a street or highway under his jurisdiction as a bicycle path or lane.

(2) The bicycle path or lane shall be identified by official traffic-control devices conforming to the Michigan manual of uniform traffic-control devices.

History: 1954 ACS 88, p. 23, Eff. Aug. 5, 1976.

R 28.1321 Sec. 4.21. "Bicycle paths"; vehicles prohibited; snowmobiles permitted under certain conditions.

(1) A person shall not operate a vehicle upon or across a bicycle path except to enter or leave adjacent property or as otherwise permitted in this section.

(2) A person may operate a snowmobile upon a bicycle path which is snow-covered and not snow-plowed for bicycle traffic.

(3) A person shall not park a vehicle upon a bicycle path.

History: 1954 ACS 88, p. 23, Eff. Aug. 5, 1976.

R 28.1322 Sec. 4.22. "Bicycle lanes"; vehicles prohibited; parking permitted under certain conditions.

(1) A person shall not operate a vehicle upon or across a bicycle lane except to enter or leave adjacent property.

(2) A person shall not park a vehicle upon a bicycle lane except where parking is permitted by official signs.

History: 1954 ACS 88, p. 24, Eff. Aug. 5, 1976.

CHAPTER 5—RIGHTS AND DUTIES OF DRIVERS AND OTHERS

R 28.1401 Sec. 5.1. Operation of vehicles on approach of authorized emergency vehicles.

Upon the immediate approach of an authorized emergency vehicle equipped with at least 1 lighted flashing, rotating or oscillating lamp exhibiting a red or blue light visible under normal atmospheric condition from a distance of 500 feet to the front of such vehicle and when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

History: 1954 ACS 13, p. 19, Eff. Feb. 14, 1958; 1954 ACS 54, p. 13, Eff. May 15, 1968.

R 28.1402 Sec. 5.2. Damage to vehicles; stopping.

The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident and shall remain thereat until he has fulfilled the requirements of section 5.4a of this ordinance. Every such stop shall be made without obstructing traffic more than is necessary.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958; 1954 ACS 25, p. 5, Eff. Feb. 14, 1961; 1954 ACS 54, p. 13, Eff. May 15, 1968.

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R 28.1403 Sec. 5.3. Accidents; fixtures on or adjacent to highway; report.

(a) The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such accident and of his name and address and of the registration number of the vehicle he is driving and shall upon request exhibit his operator's or chauffeur's license and, if such owner cannot be found, shall forthwith report such accident to the nearest or most convenient police officer.

(b) The officer receiving such report or his commanding officer shall forward each individual report to the director of state police on forms prescribed by him which shall be completed in full by the investigating officer. A copy of the accident report required under this section shall be retained by the local police department for at least 3 years.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958; 1954 ACS 54, p. 14, Eff. May 15, 1968.

R 28.1404 Sec. 5.4. Injury to or death of person; stopping.

The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident upon either public or private property, when such property is open to travel by the public, resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident and shall remain thereat until he has fulfilled the requirements of section 5.4a of this ordinance. Every such stop shall be made without obstructing traffic more than is necessary.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958; 1954 ACS 25, p. 5, Eff. Feb. 14, 1961; 1954 ACS 54, p. 14, Eff. May 15, 1968.

R 28.1404a Sec. 5.4a. Giving information and obtaining aid.

The driver of a vehicle who knows or who has reason to believe that he has been involved in an accident resulting in injury to, or death of, a person or damage to a vehicle which is driven or attended by any person shall give his name, address, registration number of the vehicle he is driving, and the name and address of the owner, and exhibit his operator's or chauffeur's license to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance in securing medical aid or transportation of an injured person or persons.

History: 1954 ACS 54, p. 14, Eff. May 15, 1968.

R 28.1405 Sec. 5.5. Unattended vehicles; report.

The driver of any vehicle which collides upon either public or private property with any vehicle which is attended or unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the vehicle or, if such owner cannot be located, shall forthwith report it to the nearest or most convenient police officer.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958; 1954 ACS 54, p. 14, Eff. May 15, 1968.

R 28.1406 Sec. 5.6. Duty to report accidents forthwith.

The driver of every motor vehicle involved in an accident resulting in injury or death of any person or total damage to all property to an apparent extent of $200.00 or more shall forthwith report such accident to the police department if the accident occurs within this governmental unit. The officer receiving such report or his commanding officer shall *forthwith* forward each individual report

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to the director of state police on forms prescribed by him which shall be completed in full by the investigating officer. A copy of the accident report required under this section shall be retained by the local police department for at least 3 years.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958; 1954 ACS 54, p. 14, Eff. May 15, 1968.

R 28.1407 Sec. 5.7. Report of garagekeeper or repairman.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident or having been struck by any bullet shall report the same to the police department immediately after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner and operator of such vehicle.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958.

R 28.1408 Sec. 5.8. Use of accident reports.

The reports required by sections 5.3, 5.5, and 5.6 shall not be available for use in any court action, but it shall be for the purpose of furnishing statistical information as to the number and cause of accidents.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958; 1954 ACS 54, p. 14, Eff. May 15, 1968.

R 28.1409 Sec. 5.9. Speed restrictions.

Any person driving a vehicle on a street shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other condition then existing, and no person shall drive any vehicle upon a street at a speed greater than will permit him to bring it to a stop within the assured, clear distance ahead.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958.

R 28.1409a Sec. 5.9a. Driving at slow speed.

A person shall not drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

History: 1954 ACS 88, p. 24, Eff. Aug. 5, 1976.

R 28.1410 Sec. 5.10. Business, residence, and parks.

Subject to the provisions of section 5.9 and except in those instances where a different speed is lawfully established and posted, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not exceeding 25 miles an hour on all streets in business and residence districts and parks, but in any case when such speed would be unsafe it shall not be lawful.

History: 1954 ACS 13, p. 20, Eff. Feb. 14, 1958.

R 28.1411 Sec. 5.11. Violation of speed limitations.

It shall be prima facie unlawful for any person to exceed any of the speed limitations set forth in section 5.10.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958.

R 28.1412 Sec. 5.12. Violation of signs.

It shall be prima facie unlawful to exceed the speed stated on signs erected in accordance with the traffic ordinances of this governmental unit.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958.

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R 28.1413 Sec. 5.13. Manner of charging violation of speed restriction.

In every charge of violation of the speed restrictions in the traffic ordinances of this governmental unit, the complaint and traffic citation shall specify the speed at which the defendant is alleged to have driven, also the speed applicable within the district or at the location.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958.

R 28.1414 Sec. 5.14. Reckless driving.

Any person who drives any vehicle upon a highway or a frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of motor vehicles, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving, and shall be punished, upon conviction, as provided in section 9.3 of this ordinance.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958; 1954 ACS 54, p. 14, Eff. May 15, 1968.

R 28.1414a Sec. 5.14a. Careless driving.

Any person who operates a vehicle upon a highway or a frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of vehicles, in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness shall be punished, upon conviction, by imprisonment for not more than 10 days or a fine of not more than $100.00, or both.

History: 1954 ACS 54, p. 15, Eff. May 15, 1968.

R 28.1414b Sec. 5.14b. Drag races prohibited.

(a) No person shall operate a vehicle upon any highway, or any other place open to the general public, including any area designated for the parking of motor vehicles, in a speed or acceleration contest or for the purpose of making a speed record, whether from a standing start or otherwise over a measured or unmeasured distance, or in a drag race as herein defined.

(b) "Drag racing" means the operation of 2 or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other over a common selected course or where timing is involved or where timing devices are used in competitive accelerations of speeds by participating vehicles. Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as participants. The operation of 2 or more vehicles either at speeds in excess of prima facie lawfully established speeds or rapidly accelerating from a common starting point to a speed in excess of such prima facie lawful speed is prima facie evidence of drag racing and is unlawful.

History: 1954 ACS 54, p. 15, Eff. May 15, 1968.

R 28.1415 Sec. 5.15. Driving under influence of intoxicating liquor or narcotic drugs.

(1) A person, whether licensed or not, who is an habitual user of narcotic drugs, barbital, a derivative of barbital, or marijuana, or a person who is under the influence of intoxicating liquor or narcotic drugs, barbital, a derivative of barbital, or marijuana, shall not drive a vehicle on a street or highway, or any other place open to the general public, including any area designated for the parking of motor vehicles.

(2) A person who is convicted of a violation of this section shall be punished by imprisonment for not more than 90 days or by a fine of not less than $50.00 nor more than $100.00, or both, together with costs of prosecution.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958; *1954 ACS 88, p. 24, Eff. Aug. 5, 1976.*

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R 28.1415a Sec. 5.15a. Driving under influence of intoxicating liquor; tests; admissibility; presumption; liability for withdrawing blood; refusal to take test; other evidence; option to demand breath test only.

(1) In any criminal prosecution for driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in a person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or saliva, shall be admissible into evidence and shall give rise to the following presumptions, and in the event any such tests are given, the results of the tests shall be made available to the person so charged or his attorney upon written request to the prosecution, with a copy of the request filed with the court, and the prosecution shall furnish the report at least 2 days prior to the day of the trial and shall be offered as evidence by the prosecution in a criminal proceeding; failure to fully comply with such request shall bar the admission of the results into evidence by the prosecution:

(a) If there was at that time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.

(b) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was impaired within the provisions of section 5.15b of this code due to the consumption of intoxicating liquor.

(c) If there was at that time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(2) Samples and specimens of urine, breath, and saliva shall be taken and collected in a reasonable manner; but only a duly licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and duly qualified to withdraw blood, acting in a medical environment, at the request of a police officer, can withdraw blood for the purpose of determining the alcoholic content therein under the provisions of the act. No liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures attaches to a qualified person who withdraws blood or assists in the withdrawal in accordance with the act unless the withdrawal is performed in a negligent manner.

(3) A person charged with driving a vehicle under the influence of intoxicating liquor who takes a chemical test administered at the request of a police officer, as provided in paragraphs (1) and (2) of this section, shall be informed that he will be given a reasonable opportunity to have a person of his own choosing administer 1 of the chemical tests as provided in this section within a reasonable time after his detention, and the results of such test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. Any person charged with driving a vehicle while under the influence of intoxicating liquor shall be informed that he has the right to demand that 1 of the tests provided for in paragraph (1) of this section shall be given him, and the results of such test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the the defendant.

(4) The person charged shall be advised that his refusal to take a test as herein provided shall result in the suspension or revocation of his operator's or chauffeur's license or his operating privilege.

(5) The provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

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(6) Notwithstanding any other provision of this code, a person requested to take this test shall be advised that he has the option to demand that only a breath test shall be given, in which case his refusal to submit to any other test shall not constitute a refusal for the purposes of sections 5.15c and 5.15d of this code.

History: 1954 ACS 88, p. 24, Eff. Aug. 5, 1976; 1954 ACS 94, p. 5, Eff. Feb. 28, 1978.

R 28.1415b Sec. 5.15b. Driving under influence of intoxicating liquor or drugs while ability impaired.

(1) A person shall not operate a vehicle on a highway, or street, or any other place open to the general public, including an area designated for the parking of motor vehicles, when, due to the consumption of intoxicating liquor, narcotic drugs, barbital, a derivative of barbital, or marijuana, he has visibly impaired his ability to operate the vehicle. When a person is charged with violation of section 5.15, a finding of guilty shall be permissible under this section.

(2) A person convicted of a violation of this section may be imprisoned for not more than 90 days or fined not more than $100.00, or both, together with costs of prosecution.

History: 1954 ACS 88, p. 25, Eff. Aug. 5, 1976.

R 28.1415c Sec. 5.15c. Implied consent.

(1) A person who operates a vehicle upon the public highways of this state is deemed to have given consent to chemical tests of his blood, breath, urine, or other bodily substances for the purpose of determining the alcoholic content of his blood if he is arrested for driving a vehicle while under the influence of intoxicating liquor, or while his ability to operate a vehicle has been impaired due to the consumption of intoxicating liquor.

(2) Any person who is afflicted with hemophilia, diabetes, or any condition requiring the use of an anticoagulent under the direction of a physician shall not be deemed to have given consent to the withdrawal of blood.

(3) The tests shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was driving a vehicle upon the public highways of this state while under the influence of intoxicating liquor.

History: 1954 ACS 88, p. 25, Eff. Aug. 5, 1976.

R 28.1415d Sec. 5.15d. Refusal to submit to test; report.

A person under arrest shall be advised of his right to refuse to submit to chemical tests, and if he refuses the request of a law enforcement officer to submit to chemical tests, no test shall be given. A sworn report shall be forwarded to the secretary of state by the law enforcement officer stating that he had reasonable grounds to believe that the person had been driving a motor vehicle on the public highways of the state while under the influence of intoxicating liquor or that he had been driving a vehicle while his ability to operate a vehicle had been impaired due to the consumption of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer and had been advised of the consequences of such refusal. The form of the report shall be prescribed and furnished by the department of state.

History: 1954 ACS 88, p. 25, Eff. Aug. 5, 1976.

R 28.1416 Sec. 5.16. Permission by owner or person having charge of motor vehicle.

It shall also be unlawful for the owner of any motor vehicle or any person having such in charge or in control *thereof to authorize* or knowingly permit the

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same to be driven or operated upon any street or any other place open to the general public, including any area designated for the parking of motor vehicles by any person who is an habitual user of narcotic drugs, barbital or any derivative of barbital or any person who is under the influence of intoxicating liquor or narcotic drugs, barbital or any derivative of barbital.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958.

R 28.1416a Rescinded.

History: 1954 ACS 54, p. 15, Eff. May 15, 1968; rescinded 1954 ACS 88, p. 16, Eff. Aug. 5, 1976.

R 28.1416b Sec. 5.16b. Consumption of liquor on highways or on property open to public.

(1) Alcoholic liquor shall not be consumed on a highway, street, or alley, or on any public or private property which is open to the general public and is not licensed to sell alcoholic liquor for consumption on the premises.

(2) A person shall not transport or possess alcoholic liquor in a container which is open or uncapped, or on which the seal is broken, within the passenger compartment of a vehicle on the streets or highways of this governmental unit. If the vehicle does not have a trunk or compartment separate from the passenger compartment, a container which is open or uncapped, or on which the seal is broken, shall be encased or enclosed. This subsection shall not apply to a chartered passenger vehicle licensed by the Michigan public service commission.

History: 1954 ACS 54, p. 15, Eff. May 15, 1968; 1954 ACS 88, p. 25, Eff. Aug. 5, 1976.

R 28.1417 Sec. 5.17. Drive on right side of roadway; exceptions.

Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When the right half of a roadway is closed to traffic while under construction or repair;

(c) Upon a roadway divided into 3 marked lanes for traffic under the rules applicable thereon; or

(d) Upon a roadway designated and signposted for 1-way traffic.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958.

R 28.1418 Sec. 5.18. Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than 1 line of traffic in each direction each driver shall give to the other at least ½ of the main-traveled portion of the roadway as nearly as possible.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958.

R 28.1419 Sec. 5.19. Overtaking and passing on left of moving vehicles.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereafter stated:

(a) The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, and when safely clear of such overtaken vehicle shall take up a position as near the right-hand edge of the main-traveled portion of the highway as is practicable.

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(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

History: 1954 ACS 13, p. 21, Eff. Feb. 14, 1958.

R 28.1420 Sec. 5.20. Overtaking and passing on right of moving vehicles.

The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for 2 or more lines of moving vehicles in each direction and when such vehicles are moving in substantially continuous lanes of traffic;

(c) Upon a 1-way street, or upon any roadway on which traffic is restricted to 1 direction of movement, where the roadway is free from obstructions and of sufficient width for 2 or more lines of moving vehicles and when such vehicles are moving in substantially continuous lanes of traffic.

(d) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

History: 1954 ACS 13, p. 22, Eff. Feb. 14, 1958.

R 28.1421 Sec. 5.21. Overtaking and passing on left; restrictions.

No vehicle shall be driven to the left side of the center of a 2-lane street or in the center lane of a 3-lane street in overtaking and passing another vehicle proceeding in the same direction unless such left side or center lane is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

History: 1954 ACS 13, p. 22, Eff. Feb. 14, 1958.

R 28.1422 Sec. 5.22. Left of center operation; prohibition.

No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(a) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(c) The limitations set forth in section 5.22 shall not apply upon a 1-way roadway.

History: 1954 ACS 13, p. 22, Eff. Feb. 14, 1958.

R 28.1423 Sec. 5.23. No passing zones.

The driver of a vehicle shall not overtake and pass any vehicle in a no passing zone where official signs or markings on the roadway indicate the beginning and end of such zone and when such signs or markings are in place and clearly visible to an ordinarily observant person.

History: 1954 ACS 13, p. 22, Eff. Feb. 14, 1958.

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R 28.1424 Sec. 5.24. One-way roadways.

Upon a roadway or alley designated and signposted for 1-way traffic a vehicle shall be driven only in the direction designated.

History: 1954 ACS 13, p. 22, Eff. Feb. 14, 1958.

R 28.1425 Sec. 5.25. Rotary traffic islands.

A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

History: 1954 ACS 13, p. 22, Eff. Feb. 14, 1958.

R 28.1426 Sec. 5.26. Driving on roadways laned for traffic.

When a roadway is divided into 2 or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(a) A vehicle shall be driven, as nearly as practicable, entirely within a single lane and shall not be moved from the lane until the driver has first made sure that the movement can be made with safety. On a roadway with 4 or more lanes, which provides for 2-way movement of traffic, a vehicle shall be driven within the extreme right-hand lane except when overtaking and passing, but shall not cross the center line of the roadway except when making a left turn.

(b) On a roadway which is divided into 3 lanes and provides for 2-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction, when the center lane is clear of traffic within a safe distance, in preparation for a left turn, or when the center lane is at the time allocated exclusively to traffic moving in the same direction the vehicle is proceeding and the allocation is designated by official traffic-control devices.

(c) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction, regardless of the center of the roadway. Drivers of vehicles shall obey the directions of those devices.

History: 1954 ACS 13, p. 22, Eff. Feb. 14, 1958; 1954 ACS 88, p. 28, Eff. Aug. 5, 1976.

R 28.1427 Sec. 5.27. Driving on divided highways.

Whenever any highway has been divided into 2 roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic every vehicle shall be driven only upon the right-hand roadway and no vehicle shall park or be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority. Crossovers on limited access highways shall not be used except by such vehicles as provided in sections 3.6, 3.7, and 3.8 of this ordinance and except by road service vehicles while going to or returning from servicing a disabled vehicle and except as otherwise permitted by authorized signs. "Road service vehicles" means vehicles clearly marked and readily recognizable as a vehicle used to assist disabled vehicles.

History: 1954 ACS 13, p. 23, Eff. Feb. 14, 1958; 1954 ACS 54, p. 15, Eff. May 15, 1968.

R 28.1428 Sec. 5.28. Limited access roadways.

No person shall drive a vehicle onto or from any limited access roadway except at such entrances and exits as are established by public authority.

History: 1954 ACS 13, p. 23, Eff. Feb. 14, 1958.

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R 28.1428a Sec. 5.28a. Limited access highway; pedestrians and certain vehicles prohibited.

A person shall not operate a motor-driven cycle or motorcycle with less than a 125 cubic centimeter engine, farm tractor, or other self-propelled farm implement, nor shall any pedestrian, bicycle, or other nonmotorized traffic be permitted on any limited access highway in this state.

History: 1954 ACS 88, p. 28, Eff. Aug. 5, 1976.

R 28.1429 Sec. 5.29. Following too closely.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the street.

History: 1954 ACS 13, p. 23, Eff. Feb. 14, 1958.

R 28.1430 Sec. 5.30. Following fire apparatus prohibited.

The driver of any vehicle other than an authorized emergency vehicle on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm.

History: 1954 ACS 13, p. 23, Eff. Feb. 14, 1958.

R 28.1431 Sec. 5.31. Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Right turns.

Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left turns on 2-way roadways.

At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(c) Left turns on other than 2-way roadways.

At any intersection where traffic is restricted to 1 direction on 1 or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

History: 1954 ACS 13, p. 23, Eff. Feb. 14, 1958.

R 28.1432 Sec. 5.32. Obedience to turning markers.

When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

History: 1954 ACS 13, p. 23, Eff. Feb. 14, 1958.

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R 28.1433 Sec. 5.33. Obedience to no-turn signs.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

History: 1954 ACS 13, p. 24, Eff. Feb. 14, 1958.

R 28.1434 Sec. 5.34. Limitations on turning around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

History: 1954 ACS 13, p. 24, Eff. Feb. 14, 1958.

R 28.1435 Sec. 5.35. Signals for starting, stopping, or turning.

(1) The driver of a vehicle or bicycle on a highway, before stopping or turning from a direct line, shall first see that the movement can be made in safety and shall give a signal as required in this section.

(2) The signal required in this section shall be given either by means of the hand and arm in the manner herein specified, or by a mechanical or electrical signal device which conveys a clear signal or warning to other highway traffic, except as provided in subsection (3). When a signal is given by means of hand and arm, the driver shall indicate his intention to stop or turn by extending his hand and arm from and beyond the left side of the vehicle and signal as follows:

(a) Left turn ..... Hand and arm extended horizontally.

(b) Right turn ..... Hand and arm extended upward.

(c) Stop or decrease speed ..... Hand and arm extended downward.

(3) A commercial motor vehicle, other than one in transit from a manufacturer to a dealer, in use on a highway, shall be equipped with, and the required signal shall be given by, a signal light or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of the commercial motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to a single vehicle or combination of vehicles.

History: 1954 ACS 13, p. 24, Eff. Feb. 14, 1958; 1954 ACS 25, p. 5, Eff. Feb. 14, 1961; 1954 ACS 88, p. 26, Eff. Aug. 5, 1976.

R 28.1436 Sec. 5.36. Stop signs.

Except when directed to proceed by a police officer, the driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection, or if there is no crosswalk shall stop at a clearly marked stop line, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver would be moving across or within the intersection.

History: 1954 ACS 13, p. 24, Eff. Feb. 14, 1958; 1954 ACS 54, p. 15, Eff. May 15, 1968.

R 28.1436a Sec. 5.36a. Right-of-way at merging highways.

When a vehicle approaches the intersection of a highway from an intersecting *highway* or street which is intended to be, and is constructed as, a merging

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highway or street, and is plainly marked at such intersection with appropriate merge signs, the vehicle shall yield right-of-way to any vehicle so close as to constitute an immediate hazard on the highway about to be entered and shall adjust its speed so as to enable it to merge safely with the through traffic.

History: 1954 ACS 54, p. 16, Eff. May 15, 1968.

R 28.1437 Sec. 5.37. Emerging from alley, driveway, or building.

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, yielding the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

History: 1954 ACS 13, p. 24, Eff. Feb. 14, 1958.

R 28.1438 Sec. 5.38. Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

History: 1954 ACS 13, p. 24, Eff. Feb. 14, 1958.

R 28.1439 Sec. 5.39. Obedience to signal indicating approach of railroad train.

Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

History: 1954 ACS 13, p. 24, Eff. Feb. 14, 1958.

R 28.1440 Sec. 5.40. Railroad crossing gate or barrier.

No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or being opened or closed.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958.

R 28.1440a Sec. 5.40a. Obstruction of vehicular traffic on highway or street by train.

It shall be unlawful for a railroad company to permit any of its trains to obstruct any vehicular traffic on public streets or highways for a longer period than 5 minutes at any one time.

History: 1954 ACS 54, p. 16, Eff. May 15, 1968.

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R 28.1440b Sec. 5.40b. Obstruction of vehicular traffic by successive train movements on highways or streets.

It shall be unlawful for a railroad company to permit successive train movements to obstruct any vehicular traffic on any public streets or highways until all vehicular traffic previously delayed by such train movements has been cleared or a period of 5 minutes has elapsed between train movements.

History: 1954 ACS 54, p. 16, Eff. May 15, 1968.

R 28.1440c Sec. 5.40c. School buses and carriers of explosives and flammables to stop for railroad crossings.

(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 10 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein, and upon proceeding when it is safe to do so the driver of the vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

(c) No stop shall be made at any such crossing on a freeway or limited access highway where such crossing is protected by a clearly visible signal, crossing gate or barrier at which time the signal, crossing gate or barrier is not activated.

History: 1954 ACS 54, p. 16, Eff. May 15, 1968.

R 28.1441 Sec. 5.41. Right-of-way at intersections.

(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(b) When 2 vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(c) The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have hereunder.

(d) The right-of-way rules declared in paragraphs (a) and (b) are modified at through highways and otherwise as stated in this ordinance.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958; 1954 ACS 54, p. 16, Eff. May 15, 1968.

R 28.1442 Sec. 5.42. Yield right-of-way signs.

(a) The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver would be moving across or within the intersection. However, if required for safety to stop, the driver shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(b) The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have hereunder.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958; 1954 ACS 54, p. 16, Eff. May 15, 1968.

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R 28.1443 Sec. 5.43. Right-of-way; vehicle turning left at intersection.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this ordinance, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn; provided, that at an intersection at which a traffic signal is located, a driver intending to make a left turn shall permit vehicles bound straight through in the opposite direction which are awaiting a go signal to pass through the intersection before making the turn.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958.

R 28.1444 Sec. 5.44. Funeral or other procession; right-of-way; flags.

(1) All vehicles and persons forming a funeral procession or other authorized procession shall have the right-of-way over all other vehicles, except fire apparatus, ambulances, and police patrol vehicles, at any street intersection. Each vehicle in the funeral procession shall have displayed on the front thereof a flag which shall be white in color, upon which shall be printed, stamped, or stained a purple cross or the star of David. In addition, the lead vehicle and the last vehicle in the funeral procession may carry an additional flag. The flag shall contain no name embossed or printed thereon except the word "funeral."

(2) A person passing through a funeral procession of motor vehicles, as designated in subsection (1), with a vehicle of any kind shall be guilty of a misdemeanor.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958; 1954 ACS 25, p. 6, Eff. Feb. 14, 1981; 1954 ACS 88, p. 26, Eff. Aug. 5, 1976.

R 28.1445 Sec. 5.45. Driving through a funeral or other procession.

No driver of a vehicle shall drive through the vehicles, persons, or animals comprising a funeral or other authorized procession while such funeral or other procession is in motion except when otherwise directed by a police officer.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958.

R 28.1446 Sec. 5.46. Drivers in a procession.

Each driver in a funeral or other authorized procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958.

R 28.1447 Sec. 5.47. When permits required for parades and processions.

No procession, or parade excepting the forces of the United States armed services, the military forces of this state, and the forces of the police and fire departments, shall occupy, march, or proceed along any roadway except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

History: 1954 ACS 13, p. 25, Eff. Feb. 14, 1958.

R 28.1448 Sec. 5.48. Vehicles shall not be driven on a sidewalk.

The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

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R 28.1449 Sec. 5.49. Limitations on backing.

(1) The driver of a vehicle shall not back the vehicle unless the movement can be made with reasonable safety and without interfering with other traffic.

(2) A vehicle shall not be backed a distance of more than 60 feet.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958; 1954 ACS 54, p. 17, Eff. May 15, 1968; 1954 ACS 88, p. 27, Eff. Aug. 5, 1976.

R 28.1450 Sec. 5.50. Crossing fire hose.

No vehicle shall be driven over any unprotected fire hose of a fire department without the consent of the fire department official in command.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

R 28.1451 Rescinded.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958; rescinded 1954 ACS 88, p. 16, Eff. Aug. 5, 1976.

R 28.1452 Sec. 5.52. Safety zones occupied by persons.

The driver of a vehicle shall not at any time drive through or over a safety zone when such safety zone contains any person thereon.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

R 28.1453 Sec. 5.53. Avoidance of traffic-control device.

No driver of a vehicle shall attempt to avoid obedience to any traffic-control device by driving upon or through any private property.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

R 28.1454 Sec. 5.54. Splashing.

No driver of a motor vehicle shall recklessly, willfully, wantonly, or carelessly operate his vehicle in such manner as to splash snow, rain, water, mud, dirt, or debris on any person then upon a sidewalk, crosswalk, or safety zone.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

R 28.1455 Sec. 5.55. Deposit of litter on streets.

(a) No person shall, without the consent of the public authority having supervision of a street, deposit, place, dump, throw, or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of any destructive or injurious material, or any rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, or debris upon any street.

(b) Any person who throws or drops or permits to be thrown or dropped upon a street any of the material or matter listed in subsection (a) shall immediately remove it or cause it to be removed.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958; 1954 ACS 54, p. 17, Eff. May 15, 1968.

R 28.1455a Sec. 5.55a. Throwing objects at or into paths of vehicles.

No person shall knowingly cause any litter or any object to fall or to be thrown into the path of or to hit a vehicle traveling upon a street.

History: 1954 ACS 54, p. 17, Eff. May 15, 1968.

R 28.1456 Sec. 5.56. Wrecked or damaged vehicles.

Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

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R 28.1457 Sec. 5.57. Spilling loads on streets prohibited.

No vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

R 28.1458 Sec. 5.58. Unattended motor vehicles; brakes; grade; key removal.

No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street, or any other place, unattended, without first stopping the engine, locking the ignition, removing and taking possession of the ignition key and effectively setting the brakes thereon and when standing upon any grade without turning the front wheels of such vehicle to the curb or side of the street. The provisions of this section pertaining to the locking of the ignition and removing and taking possession of the ignition key do not apply to motor vehicles which are manufactured with an ignition system which does not have a key and is incapable of being locked.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958; 1954 ACS 54, p. 17, Eff. May 15, 1968.

R 28.1459 Sec. 5.59. Interference with driver's view or control.

No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

R 28.1460 Sec. 5.60. Position of passengers.

No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

History: 1954 ACS 13, p. 26, Eff. Feb. 14, 1958.

R 28.1461 Sec. 5.61. Restrictions on trucks and commercial vehicles upon use of streets.

When signs are erected giving notice thereof, no person shall operate, or stop, stand, or park any truck or commercial vehicle with a gross weight in excess of the amounts specified thereon at any time upon any of the streets or parts of streets on which such signs have been posted.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1462 Sec. 5.62. Driver's license required; motorcycle indorsement; change of residence.

(1) A person who is not licensed as an operator or chauffeur, as required by the act, shall not operate a motor vehicle on the streets or highways of this governmental unit.

(2) A person who operates a motorcycle or motor-driven cycle shall have a motorcycle indorsement on the operator's or chauffeur's license.

(3) An operator or chauffeur who changes his residence before the expiration of his license shall immediately take the license to the local examining board or to the secretary of state, where the new address and the date of the change shall be entered on the back of the license.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958; 1954 ACS 88, p. 27, Eff. Aug. 5, 1976.

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R 28.1462a Sec. 5.62a. Unlicensed, suspended, revoked, or denied licenses or registrations; penalties.

(a) Any person whose operator's or chauffeur's license or registration certificate has been suspended or revoked or whose application for license has been denied, as provided under the act, or who has never applied for a license, and who shall drive any motor vehicle upon a highway or who shall knowingly permit any motor vehicle owned by such person to be operated by another upon a highway, except as permitted under the act, while such license or registration certificate is suspended or revoked, or whose application for license has been denied as provided under the act shall be punished, upon conviction, by imprisonment for a period not less than 3 days nor more than 90 days and there may be imposed in addition thereto a fine of not more than $100.00. Unless the vehicle was stolen or used with the permission of one who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be confiscated.

(b) Before the plea of the person shall be accepted under this section, the arresting officer shall check with the department to determine the record and status of the person according to the department files and so inform the court.

(c) "Department" as used in this section means the division of driver and vehicle services created in the office of the secretary of state by the act, acting directly or through duly authorized agents and employees.

History: 1954 ACS 54, p. 17, Eff. May 15, 1968.

R 28.1463 Sec. 5.63. Possession; display.

Every driver shall have his operator's or chauffeur's license in his immediate possession at all times when driving a motor vehicle, and shall display the same upon demand of any police officer.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1463a Sec. 5.63a. License restrictions.

No person shall drive a motor vehicle in violation of the restrictions imposed on his license by the secretary of state.

History: 1954 ACS 54, p. 17, Eff. May 15, 1968.

R 28.1464 Sec. 5.64. Unlawful use of license.

It is unlawful for any person to display or cause or permit to be displayed or to have in possession any operator's or chauffeur's license knowing the same to be fictitious or to have been cancelled, revoked, suspended, or altered.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1465 Sec. 5.65. Lending or permitting.

It is unlawful for any person to lend to or knowingly permit use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1466 Sec. 5.66. Unlawful display or representation.

It is unlawful for any person to display or to represent as one's own any operator's or chauffeur's license not issued to the person so displaying the same.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

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R 28.1467 Sec. 5.67. Instruction permit.

It shall be unlawful for an operator holding an instruction permit to operate a motor vehicle unless accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1468 Sec. 5.68. Unlicensed driver; owner's permission.

No person shall knowingly authorize or permit a motor vehicle owned by him or under his control to be driven by any person who is unlicensed to drive such vehicle.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1469 Sec. 5.69. License plates required.

A person shall not operate or park on the streets of this governmental unit any vehicle which is required to be registered pursuant to the act, unless the vehicle bears valid registration plates issued for it.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958; 1954 ACS 88, p. 27, Eff. Aug. 5, 1976.

R 28.1470 Sec. 5.70. Registration certificate.

The certificate of registration shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of such vehicle who shall display the same upon demand of a police officer.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1471 Sec. 5.71. Equipment.

No person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required by this ordinance, or which is equipped in any manner in violation of this ordinance.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1471a Sec. 5.71a. Equipment; exceptions.

The provisions of this ordinance or of the act with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as made applicable by this ordinance or by the act.

History: 1954 ACS 54, p. 17, Eff. May 15, 1968.

R 28.1472 Sec. 5.72. Additional parts and accessories.

Nothing contained in this ordinance shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this ordinance or the state laws of Michigan.

History: 1954 ACS 13, p. 27, Eff. Feb. 14, 1958.

R 28.1473 Sec. 5.73. Lights.

Every vehicle upon a street within this governmental unit shall be equipped with lights which shall be lighted in accordance with the provisions of the Michigan vehicle code, Act No. 300, Public Acts of 1949, as amended.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958.

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R 28.1473a Sec. 5.73a. Dimming lights.

When the driver of a vehicle approaches an oncoming vehicle within 500 feet, the driver shall use a distribution of light or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

History: 1954 ACS 88, p. 27, Eff. Aug. 5, 1976.

R 28.1474 Sec. 5.74. Spot lamps.

Any motor vehicle may be equipped with not to exceed 2 spot lamps, except that a motorcycle shall not be equipped with more than 1 spot lamp, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the beam will be directed into the eyes of the approaching driver. Spot lamps may not emit other than either a white or amber light.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958.

R 28.1475 Sec. 5.75. Flashing lights prohibited.

No vehicles except those authorized by this ordinance or by the act shall display any flashing, oscillating, or rotating light.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958; 1954 ACS 54, p. 18, Eff. May 15, 1968.

R 28.1476 Sec. 5.76. Flashing red, blue, or amber lights authorized.

Flashing, oscillating, or rotating red, blue or amber lights may be used only as follows:

(a) By authorized emergency vehicles as provided by this ordinance. State, county or municipal vehicles engaged in snow removal or ice control operations shall be equipped with flashing, oscillating or rotating amber lights placed in such position on the vehicle as to be visible throughout 360 degrees.

(b) By public utility service vehicles, ambulances, authorized emergency vehicles, automobile service cars, and wreckers engaged in removing or assisting vehicles at the site of traffic accidents and government owned vehicles actually engaged in the maintenance or repair of the street.

(c) By school buses only when said school bus is stopped on the highway for the purpose of permitting schoolchildren to board or alight therefrom.

(d) By farm tractors only when operated on the highway after dark or when visibility is poor.

(e) By vehicles when used as turn signals on the rear which shall display only a flashing red or amber light, and by vehicles when used as turn signals on the front which shall display only a flashing amber or white light.

(f) A flashing red light may be mounted and used on any motor vehicle operated by rural letter carriers when actually engaged in delivering mail on their mail routes, but only when brakes are applied.

(g) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by law. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night.

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(h) Only authorized emergency vehicles operated as police vehicles which are publicly owned or maintained or, if privately owned, at least 50% of the annual total miles traveled by such vehicle shall be driven on official law enforcement business on behalf of the state or any governmental unit and for which reimbursement is made by the state or the governmental unit, shall be equipped with a flashing, oscillating or rotating blue light which when activated shall be visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958; 1954 ACS 25, p. 6, Eff. Feb. 14, 1981; 1954 ACS 54, p. 18, Eff. May 15, 1988.

R 28.1477 Sec. 5.77. Color of lights and reflectors on vehicles.

Any lights or reflectors on a vehicle except when otherwise authorized by this ordinance or Michigan state law shall, if visible from the front, display or reflect a white or amber light; if visible from either side, display or reflect an amber light; and if visible from the rear, display or reflect a red light.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958.

R 28.1477a Sec. 5.77a. Slow moving vehicle reflective devices.

When operated on the highway, every vehicle which has a maximum potential speed of 25 miles an hour, implement of husbandry, farm tractor or special mobile equipment shall be identified with a reflective device as follows:

(a) An equilateral triangle in shape, at least 16 inches wide at the base and at least 14 inches in height, with a dark red border, at least 1¾ inches wide of highly reflective beaded material.

(b) A center triangle, at least 12¼ inches on each side of yellow-orange fluorescent material.

(c) The device shall be mounted on the rear of the vehicle, broad base down, not less than 3 feet nor more than 5 feet above the ground and as near the center of the vehicle as possible. The use of this reflective device is restricted to use on slow moving vehicles specified in this section, and use of such reflective device on any other type of vehicle or stationary object on the highway is prohibited.

History: 1954 ACS 54, p. 18, Eff. May 15, 1988.

R 28.1478 Sec. 5.78. Turn signals.

No person shall sell or offer for sale or operate on any street any vehicle manufactured or assembled after January 1, 1955, except those exempted from certificate of title requirements under the provisions of the act, unless it is equipped with mechanical or electrical turn signals meeting the requirements of said act. This section shall not apply to any motorcycle or motor-driven cycle.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958; 1954 ACS 54, p. 19, Eff. May 15, 1988.

R 28.1478a Sec. 5.78a. Stop lamps.

No person shall sell or offer for sale or operate on the highways any vehicles manufactured or assembled after January 1, 1965, except those exempted from certificate of title requirements under the provisions of the act, unless it is equipped with 2 rear stop lamps, except on a motorcycle or a motor-driven cycle, meeting the requirements of the act. Any motorcycle or motor-driven cycle shall be required to have 1 rear stop lamp.

History: 1954 ACS 54, p. 19, Eff. May 15, 1988.

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R 28.1479 Sec. 5.79. Brakes.

Brake equipment is required as follows:

(a) A motor vehicle, other than a motorcycle or motor-driven cycle, when operated on a street or highway, shall be equipped with brakes adequate to control the movement of, and to stop and hold, the vehicle, including 2 separate means of applying the brakes, each of which means shall be effective to apply the brakes to not less than 2 wheels. If these 2 separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any 1 part of the operating mechanism shall not leave the motor vehicle without brakes on not less than 2 wheels.

(b) A motorcycle or motor-driven cycle, when operated on a street or highway, shall be equipped with at least 2 brakes, 1 on the front wheel and 1 on the rear wheel, which may be operated by hand or foot.

(c) A trailer or semitrailer of a gross weight of 3,000 pounds or more, when operated on a street or highway, shall be equipped with brakes adequate to control the movement of, and to stop and hold, the vehicle, and shall be designed so as to be applied by the driver of the towing vehicle from its cab.

(d) A new motor vehicle, trailer, or semitrailer, hereafter sold in this state and operated on the streets or highways, shall be equipped with service brakes on all wheels of the vehicle, except a motorcycle or motor-driven cycle, and except that a semitrailer of less than 1,500 pounds gross weight need not be equipped with brakes. The provisions of this subdivision shall not apply to a trailer or semitrailer owned by a farmer and used exclusively in connection with the farming operations of the farmer and not used for hire. A truck or truck tractor which has 3 or more axles need not have brakes on the front wheels. A truck or truck tractor which is equipped with at least 2 steerable axles shall require brakes on 1 of the steerable axles.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958; 1954 ACS 54, p. 19, Eff. May 15, 1968; 1954 ACS 88, p. 27, Eff. Aug. 5, 1976.

R 28.1480 Sec. 5.80. Horns.

Every motor vehicle when operated upon a street shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his horn but shall not otherwise use such horn when upon a street.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958.

R 28.1480a Sec. 5.80a. Windshield required; exemptions; goggles required for operator of motorcycle or motor-driven cycle.

A motor vehicle shall not be operated on the streets or highways of this governmental unit unless it is equipped with a windshield of sufficient dimensions to protect the driver and occupants from insects, other airborne objects, and highway surface water and debris when the motor vehicle is moving forward. A farm tractor, other implements of husbandry, and historic vehicles as defined in section 803a of the act are exempt from this section. When a motorcycle or a motor-driven cycle operated on the streets and highways in excess of 35 miles an hour is not equipped with a windshield, the operator shall wear goggles with transparent lenses or a transparent face shield or eyeglasses, which goggles, eyeglasses, or face shield shall be shatter-resistant material and of sufficient size to

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protect the operator's eyes against insects, other airborne material, and highway surface water and debris.

History: 1954 ACS 88, p. 28, Eff. Aug. 5, 1976.

R 28.1481 Sec. 5.81. Windshields; obstruction to view.

No person shall drive any motor vehicle with a window so damaged or with any sign, poster, or other nontransparent material upon the front windshield, side-wings, side or rear windows of such vehicle so as to obstruct the driver's clear view of the street or any intersecting street, or with any dangling ornament or other suspended object except as authorized by law which in any way obstructs the vision of the driver of the vehicle.

History: 1954 ACS 13, p. 28, Eff. Feb. 14, 1958; 1954 ACS 25, p. 6, Eff. Feb. 14, 1961.

R 28.1482 Sec. 5.82. Windshield wipers.

The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

History: 1954 ACS 13, p. 29, Eff. Feb. 14, 1958.

R 28.1483 Sec. 5.83. Windshield defrosters; commercial vehicles.

No commercial vehicle licensed as such, shall be operated on any street at any time between December 15 and March 15, both dates inclusive, unless it is equipped with a hot air windshield defroster or an electrically heated windshield or such other scientific method that may be devised so long as same is heated and maintained in operable condition at all times.

History: 1954 ACS 13, p. 29, Eff. Feb. 14, 1958.

R 28.1484 Sec. 5.84. Windshield washers.

No motor vehicle licensed as such, and manufactured after January 1, 1956, shall be operated on the highways unless it is equipped with a windshield washer maintained in operable condition at all times and capable of cleaning the windshield in such a fashion as to leave the driver with a clear view of the street or any intersecting street.

History: 1954 ACS 13, p. 29, Eff. Feb. 14, 1958.

R 28.1485 Sec. 5.85. Metal and plastic track and tire studs.

No vehicle nor special mobile equipment shall be operated on the public highways on metal or plastic track or on tires which are equipped with metal that comes in contact with the surface of the road or which have a partial contact of metal or plastic with the surface of the road, except as provided in subsections (b) and (c) of section 5.86 of this ordinance.

History: 1954 ACS, 13, p. 29, Eff. Feb. 14, 1958; 1954 ACS 54, p. 20, Eff. May 15, 1968.

R 28.1486 Sec. 5.86. Tire studs.

(1) A tire on a vehicle moved on a highway shall not have on its periphery a block, stud, flange, cleat, spike, or other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highways, *and except that it* shall be permissible to use

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tire chains of reasonable proportions upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid, and except also as provided in subsection (2).

(2) A pneumatic tire may have embedded in it wire not to exceed .075 inches in diameter if so constructed that under no conditions shall the percent of metal in contact with the highway exceed 5% of the total tire area in contact with the roadway, except that during the first 1,000 miles of use of operation of the tire, the metal in contact with the highway shall not exceed 20% of the area.

History: 1954 ACS 13, p. 29, Eff. Feb. 14, 1958; 1954 ACS 54, p. 20, Eff. May 15, 1968; 1954 ACS 88, p. 28, Eff. Aug. 5, 1976.

R 28.1486a Sec. 5.86a. Regrooved tires prohibited; exceptions.

No person shall regroove or recut motor vehicle or motorcycle tires or knowingly sell, offer or expose for sale or have in his possession with intent to sell any motor vehicle or motorcycle tire or any motor vehicle or motorcycle equipped with 1 or more tires which have been recut or regrooved, except that there shall be no prohibition against the regrooving or recutting of commercial vehicle tires or the sale of regrooved or recut commercial vehicle tires or commercial vehicles equipped with such commercial vehicle tires which are designed and constructed in such a manner that regrooving or recutting is an acceptable and safe practice.

History: 1954 ACS 54, p. 20, Eff. May 15, 1968.

R 28.1487 Sec. 5.87. View to rear; mirrors.

(a) No person shall drive a motor vehicle on a highway which motor vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the highway to the rear by looking backward from the driver's position, unless such vehicle is equipped with a mirror so located as to reflect to the driver a view of the highway to the rear of such vehicle.

(b) Every commercial vehicle of ½ ton capacity or more, operating upon the public highways shall be equipped with 2 mirrors, 1 on each side, so adjusted that the operator shall have a clear view of the highway behind such commercial vehicle.

(c) In addition all motor vehicles shall be equipped with an outside rearview mirror on the driver's side which shall be positioned to give the driver a rearviewing angle from the driver's side of the vehicle.

History: 1954 ACS 13, p. 29, Eff. Feb. 14, 1958; 1954 ACS 54, p. 21, Eff. May 15, 1968.

R 28.1488 Sec. 5.88. Commercial vehicle; mud flaps.

Every commercial vehicle, except truck tractors traversing between terminals at a speed not to exceed 25 miles per hour, and every combination of a commercial vehicle and trailer or semitrailer when used on a street shall be so constructed or equipped, or so operated, as to bar water or other road surface substances thrown from the rear wheels of such vehicle or combination at tangents exceeding 22½ degrees measured from the road surface. If flap type device is used, it shall not have attached any type of lamp, reflective material or reflecting buttons; nor can device extend beyond the 96-inch maximum width of vehicle.

History: 1954 ACS 13, p. 29, Eff. Feb. 14, 1958; 1954 ACS 25, p. 6, Eff. Feb. 14, 1961.
Editor's note: R 28.1488 was erroneously numbered R 28.1485 in the 1960 AACS.

R 28.1489 Sec. 5.89. Lamp or flag on projecting load.

Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of

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the load, during the hours between ½ hour after sunset and ½ hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

History: 1954 ACS 13, p. 29, Eff. Feb. 14, 1958.

R 28.1490 Sec. 5.90. Mufflers.

A motor vehicle, including every motorcycle or motor-driven cycle, shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise. A person shall not remove, destroy, or damage the baffles contained in the muffler, nor shall a person use a muffler cutout, bypass, or similar device on a motorcycle or motor-driven cycle on any street or highway.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958; 1954 ACS 88, p. 28, Eff. Aug. 5, 1976.

R 28.1490a Sec. 5.90a. Unnecessary noise.

No person shall operate a motor vehicle with unnecessary noise or start, move or turn a motor vehicle, or apply the brakes or the power on a motor vehicle, or in any manner operate it so as to cause the tires to squeal or the tires or vehicle to make any noise not usually connected with the operation of the motor vehicle, except in case of an emergency.

History: 1954 ACS 54, p. 21, Eff. May 15, 1968.

R 28.1491 Sec. 5.91. Excessive fumes or smoke.

The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

R 28.1492 Sec. 5.92. Device for causing flame or smoke from motor vehicle.

No person shall install, sell, or distribute any device for the purpose of causing flame or smoke to be emitted from a motor vehicle except highway maintenance vehicles, and no person shall use any such device on a motor vehicle not so excepted.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

R 28.1493 Sec. 5.93. Display on vehicle of official designation.

No owner shall display upon any part of his vehicle or knowingly permit the display thereon of any official designation, sign, or insignia of any public or quasi-public corporation, municipal, state or national department or government subdivision without authority of such agency.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

R 28.1494 Sec. 5.94. Television set; placement in motor vehicle.

No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat or which is visible to the driver while operating the motor vehicle.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

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R 28.1495 Sec. 5.95. Size, weight, and load.

No person shall drive or move or cause or knowingly permit to be driven or moved on any street any vehicle or vehicles of width, height, length or weight in excess of the limitations governing size and weight restrictions specified in the Michigan vehicle code, Act No. 300, Public Acts of 1949, as amended.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

R 28.1496 Sec. 5.96. Merchandising within highway rights-of-way.

No person, firm, or corporation shall sell or offer for sale, or display or attempt to display for sale, any goods, wares, produce, fruit, vegetables, or merchandise within the right-of-way of any highway except as provided in subsection (d) of section 8.14 of this ordinance. This section shall not be construed to interfere with any permanently established business presently located on or partially on private property, nor to grant to the owner any additional rights or authority that the owner may not now possess, nor to diminish the legal rights or duties of the authority having jurisdiction of the right-of-way.

History: 1954 ACS 54, p. 21, Eff. May 15, 1968.

R 28.1497 Sec. 5.97. School buses; paint; signs; overtaking, meeting, or passing; discharge of passengers; signal lights; mirrors; evidence of violation.

(1) School buses shall be painted and shall contain such signs on the back and front thereof, with respect thereto, as shall be approved by the director of the department of state highways and transportation and the superintendent of public instruction.

(2) The driver of a vehicle overtaking or meeting a school bus, which has stopped and is displaying 2 alternately flashing red lights located at the same level, shall bring the vehicle to a full stop at least 10 feet from the school bus, and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. The driver of the school bus, before resuming motion, shall deactivate flashing lights and permit stopped traffic to proceed and shall, when resuming motion, proceed in such a manner as to allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety. Passengers crossing the road on being discharged from a school bus shall cross in front of the stopped school bus. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper, and in no event greater than 10 miles an hour, and with due caution for the safety of passengers being received or discharged from the school bus.

(3) Signs giving notice of this ordinance shall be posted upon, or at the entrance to, the area or part thereof affected as may be most appropriate, and shall be sufficiently legible as to be seen by an ordinarily observant person.

(4) The driver of a vehicle upon a highway which has been divided into 2 roadways by leaving an intervening space, or by a physical barrier or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.

(5) Every school bus shall, in addition to any other equipment and distinctive marking required by law, be equipped with signal lights mounted as high and widely spaced laterally as practicable. These lights shall be capable of displaying to the front 2 alternately flashing red lights located at the same level and to the *rear* 2 alternately flashing red lights located at the same level. The lights shall have

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sufficient intensity to be visible from a distance of at least 500 feet in normal sunlight and shall be actuated by the driver of the school bus whenever, but only whenever, the vehicle is stopped and for a distance of at least 200 feet in advance of a stop for the purpose of receiving or discharging schoolchildren.

(6) Every school bus shall be equipped with a mirror, convex in shape, at least 7¼ inches in diameter, firmly mounted at hood or fender-top height in front of the bus. It shall be located on either the left or right side of the bus in such a manner that the seated driver may observe through its use the road from the front bumper forward to the point where direct observation is possible.

(7) In any proceeding for a violation of subsection (1), proof that the particular vehicle described in the citation, complaint, or warrant was in violation of subsection (1), together with proof that the defendant named in the citation, complaint, or warrant was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

History: 1954 ACS 54, p. 21, Eff. May 15, 1968; 1954 ACS 88, p. 28, Eff. Aug. 5, 1976.

R 28.1498 Sec. 5.98. Opening vehicle doors so as to impede traffic.

No person shall open a door of a vehicle in such a manner as to interfere with or impede the flow of traffic.

History: 1954 ACS 54, p. 22, Eff. May 15, 1968.

R 28.1498a Sec. 5.98a. Barricade, object, device, or person impeding traffic.

A person, without authority, shall not block, obstruct, impede, or otherwise interfere with the normal flow of vehicular or pedestrian traffic on a public street or highway by means of a barricade, object, or device, or with his person. This section shall not apply to persons maintaining, rearranging, or constructing public utilities in, or adjacent to, a street or highway.

History: 1954 ACS 88, p. 29, Eff. Aug. 5, 1976.

R 28.1499 Sec. 5.99. Towed vehicles.

(a) No passenger vehicle shall be driven upon any highway drawing or having attached thereto more than 1 vehicle or trailer.

(b) The draw bar or other connection between any 2 vehicles, 1 of which is towing or drawing the other on a highway, shall not exceed 15 feet in length from 1 vehicle to the other. Whenever such connection consists of a chain, rope or cable, there shall be displayed upon such connection a red flag or other signal or cloth not less than 12 inches both in length and width.

(c) Every vehicle or trailer drawn by any motor-propelled vehicle shall be so attached to such vehicle with such forms of coupling devices as will prevent such vehicle or trailer from being deflected more than 6 inches from the path of the towing vehicle's wheels. Such vehicle or trailer shall also be connected to the towing vehicle, by suitable safety chains or devices, 1 on each side of the coupling and at the extreme outer edge of the vehicle and each such chain or device and connection so used shall be of sufficient strength to haul the trailer when loaded.

History: 1954 ACS 54, p. 22, Eff. May 15, 1968.

CHAPTER 6—OPERATION OF BICYCLES, MOTORCYCLES, MOTOR-DRIVEN CYCLES, AND TOY VEHICLES

R 28.1601 Sec. 6.1. Motorcycles; motor-driven cycles; ordinances applicable.

Every person operating a motorcycle or motor-driven cycle upon a roadway shall be granted all the *rights and shall be subject* to all the duties applicable to the

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driver of a vehicle under this ordinance except as to those provisions which by their nature can have no application.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958; 1954 ACS 54, p. 22, Eff. May 15, 1968.

R 28.1602 Sec. 6.2. Supplementary provisions.

The provisions of this chapter applicable to motorcycles and motor-driven cycles shall be considered supplementary to other provisions of this ordinance governing the operation of such vehicles.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958; 1954 ACS 54, p. 22, Eff. May 15, 1968.

R 28.1603 Sec. 6.3. Bicycles; ordinances applicable.

The provisions of this ordinance applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

R 28.1604 Sec. 6.4. Riders to obey traffic laws.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the state laws of Michigan declaring rules of the road applicable to vehicles or by the traffic ordinances of this governmental unit applicable to the driver of a vehicle, except as to special regulations in this chapter and except as to those provisions of laws and ordinances which by their nature can have no application.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

R 28.1605 Sec. 6.5. Bicycle dealers.

Every person engaged in the business of buying or selling new or second-hand bicycles shall make a report to the chief of police of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or make, the frame number thereof, and the number of license plate, if any, found thereon.

History: 1954 ACS 13, p. 30, Eff. Feb. 14, 1958.

R 28.1606 Sec. 6.6. Obedience to traffic-control devices.

Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958.

R 28.1607 Sec. 6.7. Exceptions.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958.

R 28.1608 Sec. 6.8. Number of persons, and manner of carrying persons, on motorcycles and motor-driven cycles.

(1) A person operating a motorcycle shall ride on and astride the permanent *and regular seat* attached to the vehicle, and shall not carry another person, nor

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permit another person to ride, on the motorcycle as a passenger unless it is designed and equipped to carry more than 1 person. If the motorcycle is so designed and equipped, the passenger may ride on the permanent and regular seat if it is designed for 2 persons, or on another seat firmly attached to the vehicle to the rear or side of the operator.

(2) A person operating a motor-driven cycle shall ride on and astride the permanent and regular seat attached to the vehicle, and shall not carry another person as a passenger on the motor-driven cycle.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958; 1954 ACS 54, p. 22, Eff. May 15, 1968; 1954 ACS 88, p. 29, Eff. Aug. 5, 1976.

R 28.1609 Sec. 6.9. Number and manner of carrying persons; bicycles.

A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto, and such person shall not carry more persons at one time than the number for which it is designed and equipped.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958.

R 28.1610 Sec. 6.10. Riding on roadways and bicycle paths.

(a) Every person operating a bicycle, motorcycle or motor-driven cycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or 1 proceeding in the same direction.

(b) No person operating a motor-driven cycle, a motorcycle or a bicycle shall pass between lines of traffic, but may pass on the left of traffic moving in his direction in the case of a 2-way street, or on the left or right of traffic in the case of a 1-way street, in an unoccupied lane.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958; 1954 ACS 54, p. 23, Eff. May 15, 1968.

R 28.1611 Sec. 6.11. Riding 2 abreast; exceptions.

Every person operating a bicycle, motorcycle or motor-driven cycle upon a roadway shall not ride more than 2 abreast except on paths or parts of roadways set aside for the exclusive use of such vehicles.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958; 1954 ACS 54, p. 23, Eff. May 15, 1968.

R 28.1612 Sec. 6.12. Use of paths when provided.

Whenever a usable path for bicycles has been provided adjacent to a roadway bicycle riders shall use such path and shall not use the roadway.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958.

R 28.1613 Sec. 6.13. Clinging to other vehicles.

No person riding upon any bicycle, motorcycle, coasters, roller skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958.

R 28.1614 Sec. 6.14. Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958.

R 28.1615 Sec. 6.15. Emerging from alley or driveway.

The operator of a bicycle emerging from an alley, driveway, or building, shall upon approaching a sidewalk or *the sidewalk area* extending across any alleyway,

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yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958.

R 28.1616 Sec. 6.16. Carrying articles; height of handlebars.

(1) A person operating a bicycle, motorcycle, or motor-driven cycle shall not carry a package, bundle, or article which prevents the driver from keeping both hands on the handlebars of the vehicle.

(2) A person shall not operate on a street or highway of this governmental unit a motorcycle or motor-driven cycle equipped with handlebars that are higher than 15 inches from the lowest point of the undepressed saddle to the highest point on the handlegrip of the operator.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958; 1954 ACS 54, p. 23, Eff. May 15, 1968; 1954 ACS 88, p. 29, Eff. Aug. 5, 1976.

R 28.1617 Sec. 6.17. Parking on sidewalk.

A person shall not park a bicycle on a sidewalk where bicycle parking is prohibited by official traffic-control devices, nor on a sidewalk, in any manner which would unreasonably obstruct pedestrian or other traffic.

History: 1954 ACS 13, p. 31, Eff. Feb. 14, 1958; 1954 ACS 88, p. 29, Eff. Aug. 5, 1976.

R 28.1617a Sec. 6.17a. Parking on roadway.

(1) Notwithstanding the provisions of chapter 8 of this code, and unless prohibited or restricted by traffic-control devices, a bicycle may be parked:

(a) On the roadway at an angle to the curb or edge of the roadway at any location where the parking of vehicles is allowed.

(b) On the roadway abreast of another bicycle near the side of the roadway at any location where the parking of vehicles is allowed.

(2) In all other respects, a bicycle parked anywhere on a street shall conform with the provisions of chapter 8 regulating the parking of vehicles.

History: 1954 ACS 88, p. 30, Eff. Aug. 5, 1976.

R 28.1618 Sec. 6.18. Obedience to sign.

When a sign is erected on a sidewalk which prohibits the riding of bicycles thereon by any person, a person shall not disobey the sign.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958; 1954 ACS 88, p. 30, Eff. Aug. 5, 1976.

R 28.1619 Sec. 6.19. Riding on sidewalks; right-of-way.

Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

R 28.1620 Sec. 6.20. Bicycle; lights; red reflector.

Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

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R 28.1621 Sec. 6.21. Bicycle; bell; siren; whistle.

No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that such vehicle shall not be equipped with nor shall any person use upon such vehicles any siren or whistle.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

R 28.1622 Sec. 6.22. Bicycle; brake.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

R 28.1623 Sec. 6.23. Protective helmet required.

A person operating or riding on a motorcycle or motor-driven cycle on a public thoroughfare shall wear on his head a protective helmet of a type approved by the department of state police.

History: 1954 ACS 54, p. 23, Eff. May 15, 1968; 1954 ACS 88, p. 30, Eff. Aug. 5, 1976.

R 28.1623a Sec. 6.23a. Protective helmet standards; label.

Protective helmets required by section 6.23, which are sold or offered for sale in this governmental unit, shall meet or exceed the state police standards and shall be clearly labeled as meeting those requirements.

History: 1954 ACS 88, p. 30, Eff. Aug. 5, 1976.

R 28.1624 Sec. 6.24. Dealers; leasing motorcycles or motor-driven cycles to unlicensed operators.

A dealer shall not rent, lease, or furnish a motorcycle or motor-driven cycle to a person for use on the streets and highways who is not licensed to operate a motorcycle or motor-driven cycle by this state, if a resident, or by the state of which he is a resident, if a nonresident.

History: 1954 ACS 54, p. 23, Eff. May 15, 1968; 1954 ACS 88, p. 30, Eff. Aug. 5, 1976.

R 28.1625 Sec. 6.25. Subleasing motorcycles or motor-driven cycles to unlicensed operators.

It shall be unlawful for a person to whom a motorcycle or motor-driven cycle is rented, leased or furnished, to rent, sublease or otherwise authorize the use of the motorcycle or motor-driven cycle on public streets and highways to any person who is not licensed to operate a vehicle in this state.

History: 1954 ACS 54, p. 23, Eff. May 15, 1968.

R 28.1626 Sec. 6.26. Dealers; safe operation of motorcycles or motor-driven cycles.

The dealer shall maintain in safe operating condition all motorcycles and motor-driven cycles rented, leased or furnished by him. The dealer, his agents or employees shall explain the operation of the motorcycle or motor-driven cycle being rented, leased or furnished and if such dealer, his agent or employee believes the person to whom the motorcycle or motor-driven cycle is to be rented, leased or furnished is not competent to operate such motorcycle or motor-driven cycle with competency to himself and to the safety of persons or vehicles on public streets and highways, he shall refuse to rent, lease or furnish the same.

History: 1954 ACS 54, p. 23, Eff. May 15, 1968.

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R 28.1627 Sec. 6.27. Dealers; motor vehicle liability policies.

Any dealer renting, leasing or furnishing any motorcycle or motor-driven cycle shall carry a "motor vehicle liability policy" of the same type and coverage as that outlined in section 520 of the act for each motorcycle or motor-driven cycle so rented, leased or furnished or, in the alternative, demand and be shown proof that the person renting, leasing or being furnished a motorcycle or motor-driven cycle carries a motor vehicle liability policy of at least the type and coverage as specified in section 520 of the act.

History: 1954 ACS 54, p. 23, Eff. May 15, 1968.

CHAPTER 7—PEDESTRIANS' RIGHTS AND DUTIES

R 28.1701 Sec. 7.1. Pedestrians subject to traffic-control signals.

Pedestrians shall be subject to traffic-control signals at intersections as provided for in chapter 4 of this ordinance, and at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

R 28.1702 Sec. 7.2. Pedestrians' right-of-way in crosswalk.

When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

R 28.1703 Sec. 7.3. Passing stopped vehicle at intersection.

Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

R 28.1704 Rescinded.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958; rescinded 1954 ACS 88, p. 16, Eff. Aug. 5, 1976.

R 28.1705 Sec. 7.5. Crossing roadway at right angles.

No pedestrian shall, except in a marked crosswalk, cross a roadway at any other place than by a route at right angles to the curb or by the shortest route to the opposite curb.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

R 28.1706 Sec. 7.6. When pedestrian shall yield.

Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

History: 1954 ACS 13, p. 32, Eff. Feb. 14, 1958.

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R 28.1707 Sec. 7.7. Where tunnel or overhead crossing provided.

Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway; provided, that signs prohibiting the crossing of the roadway by pedestrians at such point are in place.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1708 Sec. 7.8. Emergency vehicles.

A pedestrian shall yield the right-of-way to an authorized emergency vehicle under the conditions prescribed in section 5.1.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1709 Sec. 7.9. Prohibited crossing.

Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross the roadway except in a marked crosswalk.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1710 Sec. 7.10. Business district.

No pedestrian shall cross a roadway other than in a crosswalk in any business district.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1711 Sec. 7.11. Obedience of pedestrians to bridge and railroad barriers.

No pedestrians shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1712 Sec. 7.12. Pedestrians on streets.

Where sidewalks are provided, it shall be unlawful for pedestrians to walk upon the roadway. Where sidewalks are not provided, pedestrians shall, when practicable, walk on the left side of the street or highway facing traffic which passes nearest.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1713 Sec. 7.13. Pedestrians soliciting rides or business.

No person shall stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1714 Sec. 7.14. Pedestrians soliciting business.

No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1715 Sec. 7.15. Blind pedestrians carrying cane or guided by dog.

Any driver of a vehicle who approaches within 10 feet of a person wholly or partially blind, carrying a cane or walking stick which is white or white tipped with red, or being led by a guide dog wearing a harness and walking on either side of or slightly in front of said blind *person, shall* immediately come to a full stop

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and take such precautions before proceeding as may be necessary to avoid accident or injury to the person wholly or partially blind.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1716 Sec. 7.16. Drivers to exercise due care.

Notwithstanding the foregoing provisions of this chapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

CHAPTER 8—STOPPING, STANDING, AND PARKING

R 28.1801 Sec. 8.1. Standing or parking close to curb.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 12 inches of the curb or edge of the roadway except as otherwise provided in this chapter.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1802 Sec. 8.2. One-way streets.

Vehicles may park with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of properly signed 1-way streets.

History: 1954 ACS 13, p. 33, Eff. Feb. 14, 1958.

R 28.1803 Sec. 8.3. Obedience to angle parking signs or markings.

Upon those streets which have been signed, or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958.

R 28.1804 Sec. 8.4. Permit for loading or unloading at an angle to the curb.

It shall be unlawful for any permittee or any other person to violate any of the special terms or conditions of any special permit issued by the clerk, to permit the backing of a vehicle to the curb for the purpose of loading or unloading.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958.

R 28.1805 Sec. 8.5. Parking not to obstruct traffic.

No person shall park any vehicle upon a street, in such a manner or under such conditions as to leave available insufficient width of the roadway for free movement of vehicular traffic.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958.

R 28.1806 Sec. 8.6. Vehicle starting from parked position.

A vehicle starting from a parked position shall give moving vehicles the right-of-way and the operator of such vehicle shall give a timely and visible warning signal before so starting.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958.

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R 28.1807 Sec. 8.7. Angle parking.

A vehicle parked at an angle to the curb and about to start shall give moving vehicles the right-of-way and the operator thereof shall not back such vehicle from the curb into the moving lane of traffic unless such maneuver can be made in safety and without conflict with moving vehicles.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958.

R 28.1808 Sec. 8.8. Lights on parked vehicles.

Whenever a vehicle is lawfully parked on a street and there is sufficient natural or artificial light to reveal any person within a distance of 500 feet upon such street, no lights need be displayed upon such parked vehicle.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958.

R 28.1809 Sec. 8.9. Headlights dimmed or depressed.

Any lighted headlights upon a parked vehicle shall be depressed or dimmed.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958.

R 28.1810 Sec. 8.10. Stopping, standing, and parking; prohibited places and manner.

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(a) On a sidewalk.

(b) In front of a public or private driveway.

(c) Within an intersection.

(d) Within 15 feet of a fire hydrant.

(e) On a crosswalk.

(f) Within 20 feet of a crosswalk or, if none, then within 15 feet of the intersection of property lines at an intersection of streets.

(g) Within 30 feet upon the approach to any flashing beacon, stop sign, yield sign or traffic-control signal located at the side of a street.

(h) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.

(i) Within 50 feet of the nearest rail of a railroad crossing.

(j) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted.

(k) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

(l) On the street side of any vehicle stopped or parked at the edge or curb of a street.

(m) Upon any bridge or other elevated structure upon a street or within a street tunnel.

(n) Within 200 feet of an accident at which police officers are in attendance.

(o) In front of any theater.

(p) In any place or in any manner so as to block immediate egress from any emergency exit or exits conspicuously marked as such of buildings.

(q) In any place or in any manner so as to block or hamper the immediate use of an immediate egress from any fire escape conspicuously marked as such providing an emergency means of egress from any building.

(r) At any place where official signs prohibit stopping, standing or parking.

History: 1954 ACS 13, p. 34, Eff. Feb. 14, 1958; 1954 ACS 54, p. 23, Eff. May 15, 1968.

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R 28.1811 Sec. 8.11. Motor buses; stopping.

Motor buses, for the purpose of taking on or discharging passengers, may be stopped at the places designated in subparagraphs (b), (d), and (f) of section 8.10, or on the street side of a vehicle illegally parked in a legally designated bus loading zone.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1812 Sec. 8.12. Moving parked vehicle.

No person shall move a vehicle not lawfully under his control into any prohibited parking area or away from a curb such distance as is unlawful.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1813 Sec. 8.13. Parking in alleys.

No person shall park a vehicle in an alley, except when authorized by official signs, nor shall any person stop or stand a vehicle in any alley except while actually in the process of loading or unloading such vehicle.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1814 Sec. 8.14. Parking for certain purposes prohibited.

No person shall park a vehicle upon any street for the principal purpose of:

(a) Displaying such vehicle for sale;

(b) Washing, polishing, greasing, or repairing such vehicle, except repairs necessitated by an emergency;

(c) Displaying advertising;

(d) Selling merchandise from such vehicle except in a duly established marketplace, or when so authorized or licensed under the ordinances of this governmental unit;

(e) Storage for more than 48 continuous hours.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1815 Sec. 8.15. Standing or parking on 1-way roadways.

In the event a street includes 2 or more separate roadways and traffic is restricted to 1 direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such 1-way roadway unless signs are erected to permit such standing or parking.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1816 Sec. 8.16. Standing in passenger curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or period of time except for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such passenger curb loading zone are effective, and then only for a period not to exceed 5 minutes.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1817 Sec. 8.17. Standing in freight curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

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R 28.1818 Sec. 8.18. Driver may stop temporarily.

The driver of a vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1819 Sec. 8.19. Stopping, standing, or parking of buses and taxicabs regulated.

The operator of a bus or taxicab shall not stop, stand, or park upon any street in any business district at any place other than at a bus stop, or taxicab stand, respectively, except that this provision shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other stopping, standing, or parking regulations at any place for the purpose of and while engaged in the expeditious unloading or loading of passengers.

History: 1954 ACS 13, p. 35, Eff. Feb. 14, 1958.

R 28.1820 Sec. 8.20. Restricted use of bus and taxicab stands.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1821 Sec. 8.21. Metered parking zones.

When parking meters are erected adjacent to a space marked for parking, such space shall be a metered parking zone and no person shall stop a vehicle in any such zone for a period of time longer than designated on said parking meters upon the deposit of a coin of United States currency of the denomination designated on said meters on the days and during the time said regulations are in force as designated on said meters.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1822 Sec. 8.22. Drivers to park within spaces.

Every vehicle shall be parked wholly within the metered parking space for which the meter shows parking privilege has been granted, except that a vehicle which is of a size too large to be parked within a single designated parking meter zone shall be permitted to occupy 2 adjoining parking meter spaces when coins shall have been deposited in the parking meter for each space so occupied as is required in this ordinance for the parking of other vehicles in such space.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1823 Sec. 8.23. Prima facie evidence; parking violators.

In any proceeding for a violation of this ordinance relating to the standing, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a presumption that the

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registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1823a Sec. 8.23a. Unlawful standing or parking of vehicle; warrant for arrest; proof establishing probable cause; presumption.

Except as provided in section 8.23b involving leased vehicles, in any proceeding relating to arrest and prosecution for the violation of a local ordinance or state statute relating to the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of the ordinance or state statute, together with proof, by verifying ownership of the vehicle with the secretary of state, that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall be accepted by the court as establishing probable cause for the issuance of a warrant for the arrest of the registered owner, and creates in evidence a presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

History: 1954 ACS 88, p. 30, Eff. Aug. 5, 1976.

R 28.1823b Sec. 8.23b. Unlawful standing or parking of leased vehicle; presumption.

In a proceeding for a violation of section 8.23a involving a leased motor vehicle, proof that the particular vehicle described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation, complaint, or warrant was the lessee of the vehicle at the time of the violation, constitutes in evidence a presumption that the lessee of the vehicle, not the registered owner, was the person who parked or placed the vehicle at the point, and for the time during which, the violation occurred.

History: 1954 ACS 88, p. 30, Eff. Aug. 5, 1976.

R 28.1824 Sec. 8.24. Parking signs required.

Whenever by this or any other ordinance of this governmental unit any parking time limit is imposed or parking is prohibited on designated streets, no such regulations shall be effective unless appropriate signs giving notice thereof are erected and in place at the time of any alleged offense; except that no such signs need be erected to make effective ordinances regulating the stopping, standing, or parking of vehicles when these ordinances do not differ from the provisions of Act No. 300, Public Acts of 1949, as amended.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

CHAPTER 9—MISCELLANEOUS

R 28.1901 Sec. 9.1. Short title.

This ordinance shall be known and cited as the traffic ordinance.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1902 Sec. 9.2. Effect of ordinance; severability.

If any part or parts of this ordinance are for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The ordinance-making body hereby *declares* that it would have passed this ordinance and each part or parts thereof,

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irrespective of the fact that any one part or parts be declared invalid or unconstitutional.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1903 Sec. 9.3. Penalties.

Unless another penalty is expressly provided by the ordinances of this governmental unit, every person convicted of a violation of any provision of this ordinance shall be punished by a fine of not more than $100.00 or by imprisonment for not more than 90 days or by both such fine and imprisonment.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1904 Sec. 9.4. Saving clause.

All proceedings pending in all rights and liabilities existing, acquired or incurred, at the time this ordinance takes effect, are hereby saved, and such proceedings may be consummated under and according to the ordinance in force at the time such proceedings are or were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed by the ordinance adopting this uniform traffic code for offenses committed prior to the effective date of this ordinance; and all prosecutions pending at the effective date of this ordinance, and all prosecutions instituted after the effective date of this ordinance for offenses committed prior to the effective date of this ordinance may be continued or instituted under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

History: 1954 ACS 13, p. 36, Eff. Feb. 14, 1958.

R 28.1905 Sec. 9.5. Adoption of ordinance by reference.

Any governmental unit adopting the uniform traffic code by reference shall adopt said code in its entirety but any 1 or more provisions, sections or chapters of this code may be amended, revised, deleted or otherwise changed or modified by the adopting governmental unit either in the ordinance wherein this code is adopted or in a subsequent enactment of the adopting governmental unit and provisions, sections, and chapters may be added to this code in like manner.

History: 1954 ACS 13, p. 37, Eff. Feb. 14, 1958.

CHAPTER 10—SNOWMOBILES

R 28.2001 Sec. 10.1. Words and phrases.

The following words and phrases, when used in this chapter, have the meanings respectively ascribed to them in this chapter. Whenever any word or phrase used herein is not defined herein, but is defined in this ordinance, or in Act No. 74 of the Public Acts of 1968, as amended, being §257.1501 et seq. of the Michigan Compiled Laws, the definitions used therein shall be deemed to apply to the words and phrases used in this chapter.

Sec. 10.001. Dealer.

"Dealer" means a person engaged in the sale, lease, or rental of snowmobiles as a regular business.

Sec. 10.002. Operate.

"Operate" means to ride in or on, or to be in actual physical control of, a snowmobile.

Sec. 10.003. Owner.

"Owner" means any of the following:

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(a) A person who holds the legal title to a snowmobile in his name.

(b) A vendee or lessee of a snowmobile which is the subject of an agreement for the conditional sale or lease thereof, with the right or purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

(c) A person renting a snowmobile, or having exclusive use of a snowmobile, for more than 30 days.

Sec. 10.004. Public property.

"Public property" means property owned, leased, or otherwise controlled by this governmental unit, including parks, parking lots, and recreational areas.

Sec. 10.005. Private property open to the public.

"Private property open to the public" means property which is privately owned but is open to public access.

Sec. 10.006. Right-of-way.

"Right-of-way" means that portion of a street or highway less the roadway and any shoulder.

Sec. 10.007. Snowmobile.

"Snowmobile" means a motor-driven vehicle designed for travel primarily on snow or ice, of a type which utilizes sled-type runners or skis, an endless belt tread, or any combination of these, or other similar means of contact with the surface on which it is operated.

History: 1954 ACS 88, p. 31, Eff. Aug. 5, 1976.

R 28.2011 Sec. 10.11. Registration required; exceptions.

A snowmobile shall not be operated within the corporate limits of this governmental unit unless and until it is registered by the owner pursuant to Act No. 74 of the Public Acts of 1968, as amended, except that the following snowmobiles may be operated without being registered:

(a) A snowmobile operated exclusively on lands owned by, or under the control of, the snowmobile owner.

(b) A snowmobile used entirely in an approved safety education and training program conducted by a certified snowmobile safety instructor.

(c) A snowmobile which is exclusively operated in a special event of limited duration, which is conducted according to a prearranged schedule under a permit from this governmental unit.

History: 1954 ACS 88, p. 31, Eff. Aug. 5, 1976.

R 28.2012 Sec. 10.12. Certificate of registration; carrying; display; duplicate.

A certificate of registration shall be carried on the snowmobile when it is in operation, and shall be displayed on demand of a police officer. If the certificate is lost, mutilated, or illegible, the owner shall immediately obtain a duplicate certificate of registration by application to the secretary of state.

History: 1954 ACS 88, p. 31, Eff. Aug. 5, 1976.

R 28.2013 Sec. 10.13. Identification number; display; form.

The identification number of the certificate of registration shall be prominently displayed on both sides of the forward half of the snowmobile. The number shall be painted on or attached in a permanent manner in block characters of good proportion, not less than 3 inches in height, reading from left to right, and shall contrast so as to be distinctly visible and legible. Other numbers shall not be attached or displayed on the snowmobile.

History: 1954 ACS 88, p. 31, Eff. Aug. 5, 1976.

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R 28.2014 Sec. 10.14. Operation of snowmobile registered in another state or Canada.

A snowmobile registered in another state, or in a province of Canada, to a nonresident of this state may be operated within this governmental unit under the authority of that registration for a period of not more than 20 days.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2021 Sec. 10.21. Brakes.

A snowmobile shall be equipped with brakes capable of 1 of the following while the snowmobile travels on packed snow and carries an operator who weighs 175 pounds or more:

(a) Stopping the snowmobile in not more than 40 feet from an initial steady speed of 20 miles an hour.

(b) Locking the snowmobile traction belt or belts.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2022 Sec. 10.22. Lights.

A snowmobile shall be equipped with 1 headlight and 1 taillight. The lights shall be lighted when the snowmobile is being operated between the hours from ½ hour after sunset to ½ hour before sunrise.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2023 Sec. 10.23. Muffler.

A snowmobile shall be equipped with a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from the vehicle path under full throttle does not exceed 86 DBA, decibels on the "a" scale, on a sound meter having characteristics defined by the American standards association S1, 4-1966 "general purpose sound meter." All snowmobiles manufactured after February 1, 1972, and operated in this governmental unit, shall not exceed 82 DBA of the 1970 society of automotive engineers code J-192.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2031 Sec. 10.31. Operation on designated public and private property.

A snowmobile shall be operated within the corporate limits of this governmental unit only on public property and private property open to the public which has been so designated by the governing body of this governmental unit, or on property owned or under the control of the owner of the snowmobile.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2032 Sec. 10.32. Time and conditions of operation.

Operation of a snowmobile on public property and private property open to the public shall be carried on only at times and under conditions determined by an official authorized by the governing body to make those decisions.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2033 Sec. 10.33. Speeds.

A person shall not operate a snowmobile on public property or private property open to the public at a speed greater than is reasonable and proper having due regard for existing conditions.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

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R 28.2034 Sec. 10.34. Operating snowmobile under influence of intoxicating liquor, narcotic drugs, or barbital.

A person shall not operate a snowmobile on public property or private property open to the public while under the influence of intoxicating liquor or narcotic drugs, barbital, or a derivative of barbital.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2035 Sec. 10.35. Operation between midnight and 6 a.m.

A person shall not operate a snowmobile within 100 feet of a dwelling between 12 midnight and 6 a.m. at a speed greater than the minimum required to maintain forward movement of the snowmobile.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2036 Sec. 10.36. Operation on cemetery or burial ground.

A person shall not operate a snowmobile on or across a cemetery or burial ground.

History: 1954 ACS 88, p. 32, Eff. Aug. 5, 1976.

R 28.2037 Sec. 10.37. Operation on public sidewalk.

A person shall not operate a snowmobile on a public sidewalk, except that a snowmobile may be driven across a sidewalk at a regular driveway.

History: 1954 ACS 88, p. 33, Eff. Aug. 5, 1976.

R 28.2038 Sec. 10.38. Operation on limited access highway.

A person shall not operate a snowmobile on a limited access highway.

History: 1954 ACS 88, p. 33, Eff. Aug. 5, 1976.

R 28.2039 Sec. 10.39. Operation on roadway.

A person shall not operate a snowmobile on any roadway within the corporate limits of this governmental unit, except that:

(a) The chief of police is hereby authorized to permit the operation of a snowmobile on a roadway when, because of snow or other extreme roadway conditions, conventional motor vehicles cannot be used for necessary transportation.

(b) A snowmobile may be operated on a roadway when necessary to cross the roadway or to cross a bridge or culvert. The snowmobile shall be brought to a complete stop before entering onto the roadway, and the operator shall yield the right of way to a vehicle approaching on the roadway.

(c) A snowmobile may be operated on a roadway only for a distance of not more than 500 feet while traveling to an area approved for snowmobile use or between 2 approved areas.

History: 1954 ACS 88, p. 33, Eff. Aug. 5, 1976.

R 28.2040 Sec. 10.40. Operation by person under 12 years of age.

A parent or legal guardian shall not permit his child who is under the age of 12 years to operate a snowmobile without the direct supervision of an adult, except on land owned by or under the control of, the parent or legal guardian. An operator under the age of 12 years shall not cross a street or highway.

History: 1954 ACS 88, p. 33, Eff. Aug. 5, 1976.

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R 28.2041 Sec. 10.41. Operation by persons 12 to 16 years of age.

A person between the ages of 12 and 16 years may operate a snowmobile if any one of the following requirements is met:

(a) He is under the direct supervision of a person who is not less than 18 years of age.

(b) He has in his immediate possession a snowmobile safety certificate issued to him.

(c) He is on land owned or under the control of his parent or legal guardian.

History: 1954 ACS 88, p. 33, Eff. Aug. 5, 1976.

R 28.2051 Sec. 10.51. Accident; notice; report.

The operator of a snowmobile involved in an accident which results in an injury to or the death of any person, or in property damage in an estimated amount of not less than $100.00, shall immediately notify the police department. The police department shall complete a report of the accident on a form prescribed by the director of the department of state police, and forward the report to that department. A copy of the accident report shall be retained by the police department for not less than 3 years.

History: 1954 ACS 88, p. 33, Eff. Aug. 5, 1976.

R 28.2061 Sec. 10.61. Duties of dealer; liability insurance.

(a) A dealer who rents, leases, or otherwise furnishes snowmobiles to the public shall maintain in safe operating condition the snowmobiles so rented, leased, or furnished. The dealer, his agents, or his employees shall explain the operation of the snowmobile being rented, leased, or furnished. If the dealer, agent, or employee believes the person to whom the snowmobile is to be rented, leased, or furnished is not competent to operate the snowmobile with safety to himself and to others, he shall refuse to rent, lease, or furnish the snowmobile.

(b) A dealer who rents, leases, or otherwise furnishes a snowmobile shall carry a policy of liability insurance subject to limits, exclusive of interests and costs, with respect to the snowmobile, as follows: $20,000.00 because of bodily injury to or death of 1 person in any 1 accident and subject to that limit for 1 person; $40,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident; and $10,000.00 because of injury to or destruction of property of others in any 1 accident; or, in the alternative, demand and be shown proof that the person renting, leasing, or being furnished a snowmobile carries a liability policy of at least the type and coverage specified above.

History: 1954 ACS 88, p. 33, Eff. Aug. 5, 1976.

R 28.2071 Sec. 10.71. Operation in violation of chapter.

The owner of a snowmobile shall not permit his snowmobile to be operated in violation of the provisions of this chapter.

History: 1954 ACS 88, p. 34, Eff. Aug. 5, 1976.

R 28.2072 Sec. 10.72. Registered number as evidence of operation by owner.

In a proceeding for a violation of this chapter involving prohibited operation or conduct, the registration number displayed on a snowmobile constitutes prima facie evidence that the owner of the snowmobile was the person operating the snowmobile at the time of this offense.

History: 1954 ACS 88, p. 34, Eff. Aug. 5, 1976.

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R 28.2073 Sec. 10.73. Stopping at direction of uniformed police officer; violation; identification of official law enforcement vehicle.

(1) The operator of a snowmobile who is given, by hand, voice, emergency light, or siren, a visual or audible signal by a police officer, acting in the lawful performance of his duty, directing the operator to bring his snowmobile to a stop, shall do so. An operator shall not willfully fail to obey the direction by increasing his speed, extinguishing his lights, or otherwise attempting to flee or elude the officer.

(2) The officer giving the signal shall be in uniform. A vehicle or snowmobile which is used at night for purposes of enforcing this chapter shall be identified as an official law enforcement vehicle or snowmobile.

History: 1954 ACS 88, p. 34, Eff. Aug. 5, 1976.

R 28.2074 Sec. 10.74. Violation as misdemeanor.

A person who violates a provision of this chapter is guilty of a misdemeanor.

History: 1954 ACS 88, p. 34, Eff. Aug. 5, 1976.

R 28.2075 Sec. 10.75. Arrest without warrant; procedures.

When a person is arrested without warrant for a violation of this chapter, except a violation of section 10.35, the arresting officer shall follow the procedures provided in section 2.10 or 2.11, whichever is applicable.

History: 1954 ACS 88, p. 34, Eff. Aug. 5, 1976.

FIRE MARSHAL DIVISION

HOSPITALS AND INSTITUTIONS

R 28.3001—R 28.3044 Rescinded.

History: 1954 ACS 18, pp. 5-25, Eff. May 15, 1959; rescinded 1954 ACS 25, p. 7, Eff. Feb. 14, 1961.

HOSPITALS AND INSTITUTIONS

R 28.3051—R 28.3094 Rescinded.

History: 1954 ACS 25, pp. 7-28, Eff. Feb. 14, 1961; rescinded 1954 ACS 100, p. 11, Eff. July 18, 1979.

SCHOOL FIRE SAFETY

R 28.3201—R 28.3218 Rescinded.

History: 1954 ACS 26, pp. 5-15, Eff. May 15, 1961; rescinded 1954 ACS 74, p. 13, Eff. May 15, 1973.

HOMES FOR THE AGED AND NURSING HOMES

R 28.3401—R 28.3466.3 Rescinded.

History: 1954 ACS 38, pp. 8-39, Eff. May 15, 1964; rescinded 1954 ACS 100, p. 11, Eff. July 18, 1979.

LIQUEFIED PETROLEUM GASES

(By authority conferred on the department of state police by sections 3a, 5, and 5a of Act No. 207 of the Public Acts of 1941, as amended, and section 153 of Act No. 380 of the Public Acts of 1965, being §§29.3a, 29.5, 29.5a, and 16.253 of the Michigan Compiled Laws)

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R 28.3801 Definitions.

Rule 1. As used in these rules and in NFPA 58:

(a) "Approved" means acceptable to the director.

(b) "Authority having jurisdiction" means the department of state police. A liquefied petroleum gas single container installation of 2,000 gallons capacity or less or a multi-container installation of 4,000 gallons aggregate capacity or less which comply with these rules may be approved by a designated official of a local governing body.

(c) "Director" means the director of the department of state police.

(d) "NFPA 58" means the 1974 edition of pamphlet no. 58 entitled "Storage and Handling of Liquefied Petroleum Gases" and published by the national fire protection association.

History: 1954 ACS 71, p. 5, Eff. Apr. 4, 1972; 1954 ACS 84, p. 5, Eff. June 25, 1975.

R 28.3802 Adoption by reference.

Rule 2. NFPA 58 and matters incorporated therein by reference are adopted by reference except as hereinafter provided and is available for inspection or purchase by the public from the State Police Fire Marshal Division, 714 South Harrison Road, East Lansing, Michigan, or from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, at a cost of $4.00 each.

History: 1954 ACS 71, p. 5, Eff. Apr. 4, 1972; 1954 ACS 84, p. 5, Eff. June 25, 1975.

R 28.3803 Variance from NFPA 58 for submittal of plans and specifications.

Rule 3. Section 140—Fixed installations, of NFPA is amended to read as follows: Notwithstanding section 141 of NFPA 58, a complete set of duplicate plans and specifications of a proposed installation or addition to a present installation, using storage containers of over 2,000 gallons individual water capacity or when the aggregate water capacity exceeds 4,000 gallons, and a container charging plant shall be submitted to the director together with an area map showing the legal description of the proposed location as to buildings, tanks and existing occupancies for a distance of 500 feet. Upon examination by the director of the plans and specifications and his finding that they are in conformity with the liquefied petroleum gases rules, the director shall issue a permit of construction which shall be valid after a letter of approval is received from the local governing body. Upon completion of any construction or addition, a representative of the director shall inspect it and if found to be in complete conformity with these rules, a permit of operation shall be issued.

History: 1954 ACS 71, p. 5, Eff. Apr. 4, 1972; 1954 ACS 84, p. 5, Eff. June 25, 1975.

R 28.3804 Variance from NFPA 58 for underground containers and storage.

Rule 4. Notwithstanding sections 3121, 3126, 3132(c), (d), and (e), and 3135(d), of NFPA 58, a below ground or partly below ground container shall be permitted only after securing approval of the director or his authorized representative. Only an installation that meets the requirements of NFPA 58 for below ground containers and provides as great or greater safety than above ground installations will be considered.

History: 1954 ACS 71, p. 5, Eff. Apr. 4, 1972; 1954 ACS 84, p. 6, Eff. June 25, 1975.

R 28.3805 Variance from NFPA 58 for direct gas-fired tank heaters.

Rule 5. Notwithstanding section 2433 of NFPA 58, direct gas-fired tank heaters are not permitted.

History: 1954 ACS 71, p. 5, Eff. Apr. 4, 1972; 1954 ACS 84, p. 6, Eff. June 25, 1975.

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R 28.3806 Variance from NFPA 58 for cylinder filling locations.

Rule 6. With the exception of section 4221(a), where reference is made in NFPA 58 to table 4-2, table 1 of these rules shall apply.

History: 1954 ACS 71, p. 6, Eff. Apr. 4, 1972; 1954 ACS 84, p. 6, Eff. June 25, 1975.

R 28.3807 Nonconforming interpretations.

Rule 7. Notwithstanding paragraph 4221(b) of NFPA 58, the words "should," "may," "consideration," or "recommended" where used in NFPA 58 and other standards referred to therein, shall be interpreted as being "required" as far as these rules are concerned, except as NFPA 58 and other standards referred to therein may provide for alternate designs or methods under specific circumstances.

History: 1954 ACS 84, p. 6, Eff. June 25, 1975.

R 28.3808 Right to refuse delivery.

Rule 8. (1) A person shall refuse to deliver liquefied petroleum gas into a nonconforming container or container installation when he has reason to believe that the intended use of the product would constitute a hazard to life or property.

(2) A person shall refuse to deliver liquefied petroleum gas into a tank or container under any circumstances prohibited by these rules.

TABLE 1[1]

Distance Between Point of Transfer and Exposures

Part	Exposure	Minimum Horizontal Distance, Feet
1	Buildings[2] with fire resistive walls[3]	25
2	Buildings[2] with other than fire resistive walls	50
3	Building wall openings or pits at or below the level of the point of transfer	50
4	Line of adjoining property which may be built upon	50
5	Outdoor places of public assembly, including school yards, athletic fields and playgrounds	50
6	Public ways, including public streets, highways, thoroughfares and sidewalks	
	(a) From points of transfer in distributing points	25
	(b) From points of transfer in distributing plants	25
7	Driveways	5
8	Mainline railroad track centerlines	25
9	Containers[4]	10

Note 1: Table 1 is not applicable to the transfer operations covered in 4210 of NFPA 58.

Note 2: "Buildings" includes structures such as mobile homes, recreational vehicles, modular homes, tents, and box trailers at construction sites.

Note 3: Walls constructed of noncombustible materials having, as erected, a fire resistance of at least 1 hour as determined by NFPA no. 251, "Standard Methods of Fire Tests of Building Construction and Materials."

Note 4: Not applicable to filling connections at the storage container.

History: 1954 ACS 84, p. 6, Eff. June 25, 1975.

R 28.3818 Modification.

Rule 18. A person, or his authorized agent, confronted with practical difficulties in the carrying out of the strict letter of these rules, may apply to the director

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for the modification thereof. Only such modification as will not constitute a distinct hazard to life or property will be considered. The decision of the director, including the particulars of any such application, shall be entered upon the records of the department of state police, and a signed copy thereof shall be furnished to the applicant.

History: 1954 ACS 71, p. 6, Eff. Apr. 4, 1972.

R 28.3819 Rescission.

Rule 19. The rules entitled "Liquefied Petroleum Gases," and appendices, being R 28.751 to R 28.897 of the Michigan Administrative Code and appearing on pages 1327 to 1374 of the 1960 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 71, p. 6, Eff. Apr. 4, 1972.

RECORDS AND IDENTIFICATION DIVISION

PRIVATE SECURITY GUARDS

(By authority conferred upon the department of state police by sections 19, 23, and 27 of Act No. 330 of the Public Acts of 1968, being §§338.1069, 338.1073, and 338.1077 of the Michigan Compiled Laws)

R 28.4001 General provisions.

Rule 1. (1) These rules implement Act No. 330 of the Public Acts of 1968, being §§338.1051 to 338.1079 of the Michigan Compiled Laws, and hereinafter referred to as the "act," and apply to all the private security guard agencies listed in subsections (a), (b), and (c) of section 2 of the act.

(2) "Department" means the Michigan department of state police.

History: 1954 ACS 58, p. 5, Eff. May 15, 1969.

R 28.4002 Prohibited words in agency names.

Rule 2. The following words in an agency name will not be approved by the department:

(a) "Police."

(b) "Michigan," "United States," or the name of a specific city, village, or county. However, an owner may use his own name which is similar to the name of a city, village, or county if his business is remote from the city, village, or county with a similar name.

History: 1954 ACS 58, p. 5, Eff. May 15, 1969.

R 28.4003 Lists of employees.

Rule 3. A complete employee personnel list shall be filed with the department by each licensee on a quarterly basis. This list shall be kept confidential except for official use.

History: 1954 ACS 58, p. 5, Eff. May 15, 1969.

R 28.4004 Uniforms.

Rule 4. (1) All security guard employees of any agency described in section 2 of the act and licensed to conduct business as a private security guard agency shall wear a uniform. Minimum requirements are a uniform cap and a uniform shirt, blouse, jacket or overcoat which will have the designated patches and emblems required by subdivisions *(a), (b), and (d) of subrule* (2).

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(2) A uniform bearing the following emblems and patches will be approved by the department:

(a) Shoulder patches shall be red in color, bear the name of the licensee, have white, clearly legible lettering, and may bear an approved agency design or insignia. The patches shall be of half moon design 3 inches high and 5 inches wide. A patch shall be worn on each shoulder of a shirt, blouse, jacket, or overcoat.

(b) A patch shall be worn on the right breast with words "Security Guard," "Security Technician," "Patrolman," or "Watchman," whichever is applicable. It shall be 4½ inches long, 1 inch high, and red with white lettering.

(c) An employee may wear an appropriate designation of his rank, such as sergeant, on either or both sleeves; and chevrons shall be red in color with white piping. If the employee is of commissioned officer rank, he may wear the appropriate emblem on the collar or shoulders of his uniform shirt, jacket, or blouse.

(d) If shoulder straps (epaulettes) are worn on the uniform shirts, jackets, or blouses, they shall be the same color as the shoulder patches.

(e) A cap ornament may be worn. It shall not carry the state of Michigan seal. It may carry the rank of the employee and shall have the same name as approved by the department.

(f) Plant protection personnel shoulder patches shall be the same as described in subrule (2)(a), except they may be an orange background with white lettering. Cap ornaments for plant protection personnel shall be subject to the same restrictions as listed in subrule (2)(e).

(3) Any deviation from the requirements of subrule (2) requires approval by the department.

History: 1954 ACS 58, p. 5, Eff. May 15, 1969.

R 28.4005 Badges.

Rule 5. Any square or rectangular badge will be approved by the department and may bear the approved agency name. Any other shape badge or shield will not be approved.

History: 1954 ACS 58, p. 6, Eff. May 15, 1969.

R 28.4006 Names and emblems in advertising.

Rule 6. (1) An agency shall not solicit or advertise for business with any name other than that approved by the department. This includes letterheads, vehicles, etc. Such material on hand may be phased out.

(2) An agency shall not display on a vehicle any shield, star, or other emblem which would be likely to deceive or confuse the public or be identical with an emblem on any law enforcement vehicle. Vehicles with emblems now in use may be phased out.

History: 1954 ACS 58, p. 6, Eff. May 15, 1969.

HEARINGS

(By authority conferred upon the department of state police by sections 2 and 4 of Act No. 197 of the Public Acts of 1952, as amended, being §§24.102 and 24.104 of the Michigan Compiled Laws)

R 28.4011 Conduct and appeals.

Rule 11. (1) A hearing conducted by the department shall be in accordance with sections 1 to 7 of Act No. 197 of the Public Acts of 1952, as amended, being §§24.101 to 24.107 of the Michigan Compiled Laws.

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(2) An appeal from a final decision rendered according to these rules shall be taken pursuant to sections 8 and 9 of Act No. 197 of the Public Acts of 1952, being §§24.108 and 24.109 of the Michigan Compiled Laws.

History: 1954 ACS 60, p. 5, Eff. Nov. 14, 1969.

R 28.4012 Notices.

Rule 12. (1) The department shall set a time for a hearing without undue delay and shall send written notice by registered or certified mail not less than 14 days before the date of the hearing.

(2) The notice of a hearing, in addition to statutory requirements, shall include:

(a) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(b) A reference to the particular sections of the statutes and rules involved.

(c) A short and plain statement of the matters asserted. If the department or other party is unable to state the matters in detail at the time notice is served, the initial notice may state the issues involved. Thereafter, on application, the department or other party shall furnish a more definite and detailed statement of facts and issues.

History: 1954 ACS 60, p. 5, Eff. Nov. 14, 1969.

R 28.4013 Defaults, answers, and adjournments.

Rule 13. (1) If a party fails to appear after proper service of notice, the department, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

(2) A party who has been served with a notice of hearing may file a written answer before the date set for hearing.

(3) At the hearing or by appropriate notice to all parties, on request of a party or on its own motion, the department or its representative conducting the hearing may by announcement continue the hearing from day to day or by order adjourn the hearing to a later date. A continuance shall not be granted which will delay the hearing an unreasonable period of time.

History: 1954 ACS 60, p. 5, Eff. Nov. 14, 1969.

R 28.4014 Production of records.

Rule 14. On a request for identifiable department records, relevant to matters involved, except records exempt from disclosure by law, the department shall make such records promptly available to a party. The circuit court of the county in which a party resides or has a place of business, or in which the department records are located, has jurisdiction to order the production of department records improperly withheld from the party and shall determine de novo the right of the party to examine such records. The burden as to such issue shall be on the department. Proceedings solely for such relief shall be assigned for hearing at the earliest practicable date and expedited in every way.

History: 1954 ACS 60, p. 5, Eff. Nov. 14, 1969.

R 28.4015 Statements of facts, evidence, depositions, and arguments.

Rule 15. (1) A person who requests a hearing shall submit in writing a full and accurate statement of the facts on which his request is founded to the department and to all parties in interest. The statement of facts shall be accepted in evidence.

(2) Irrelevant, immaterial, or unduly repetitious evidence, shall be excluded. Objections to offers of evidence shall be noted in the record. If a hearing will be

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expedited and the interests of the parties not prejudiced substantially, evidence may be received in written form under oath before a notary public.

(3) A deposition may be used in lieu of other evidence if it is taken in compliance with the general court rules.

(4) The parties shall be given an opportunity to present oral and written argument on issues of law and policy and an opportunity to present evidence and argument on issues of fact.

History: 1954 ACS 60, p. 6, Eff. Nov. 14, 1969.

R 28.4016 Official notice.

Rule 16. (1) On taking official notice of a fact which may be disputable or crucial, the department shall notify all parties of the noticed fact and its source and give all parties the opportunity for cross-examination and for contesting the fact through written submission of evidence and arguments.

(2) If the department takes official notice of a fact in the process of preparing a final report, it shall determine whether a party shall be given an opportunity to contest such fact before a decision is announced.

History: 1954 ACS 60, p. 6, Eff. Nov. 14, 1969.

R 28.4017 Decisions.

Rule 17. If a party submits proposed findings of fact which would control the decision, the department shall include a ruling on each proposed finding of fact. Each conclusion of law shall be supported by authority or reasoned opinion.

History: 1954 ACS 60, p. 6, Eff. Nov. 14, 1969.

R 28.4018 Records.

Rule 18. The department shall prepare an official record of the hearing which shall include:

(a) Pleadings, motions and intermediate rulings.

(b) Questions and offers of proof, objections and rulings thereon.

(c) Evidence received or considered.

(d) Matters officially noticed.

(e) Proposed findings and exceptions.

(f) Any decision, opinion or report by the officer presiding at the hearing.

History: 1954 ACS 60, p. 6, Eff. Nov. 14, 1969.

R 28.4019 Rehearings.

Rule 19. (1) Unless otherwise provided by law the department may order a rehearing on its own motion or on motion of a party which is based on 1 or more of the following grounds:

(a) That the department findings were based on physical tests or examinations not supported by proofs and evidence.

(b) That the staff reports used in evidence were not made available for examination by the parties for a reasonable time before the hearing.

(c) That the record of testimony made at the hearings is asserted to be inadequate for purposes of a judicial review.

(2) A motion or application for a rehearing shall be filed within the time fixed by the act for instituting proceedings for judicial review. A rehearing shall be noticed and conducted and considered in the same manner as an original hearing.

History: 1954 ACS 60, p. 6, Eff. Nov. 14, 1969.

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LAW ENFORCEMENT OFFICERS TRAINING COUNCIL

GENERAL RULES

(By authority conferred upon the department of state police by section 9 of Act No. 203 of the Public Acts of 1965, being §28.609 of the Michigan Compiled Laws)

R 28.4101 General provisions.

Rule 1. As used in these rules, "act" means Act No. 203 of the Public Acts of 1965, as amended, being §§28.601 to 28.616 of the Michigan Compiled Laws. The terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 73, p. 5, Eff. Nov. 10, 1972.

R 28.4102 Employment qualifications.

Rule 2. A person employed as a police officer under the act shall:

(a) Be a citizen of the United States.

(b) Have attained the minimum age as established by the hiring agency, which shall be not less than 18 years or as otherwise provided by law.

(c) Have obtained a high school diploma or have attained a passing score on the general education development test indicating a high school graduation level.

(d) Have no prior felony convictions.

(e) Possess good moral character as determined by a favorable comprehensive background investigation covering school and employment records, home environment and personal traits and integrity. Consideration will be given to all law violations, including traffic and conservation law convictions, as indicating a lack of good character.

(f) Possess normal hearing, normal color vision, and normal visual functions and acuity in each eye correctable to 20/20. Be free from any other impediment of the senses, physically sound, in possession of his extremities and well developed physically, with height and weight in relation to each other as indicated by accepted medical standards. Be free from any physical defects, chronic diseases, organic diseases, organic or functional conditions, or mental and emotional instabilities which may tend to impair the efficient performance of his duty or which may endanger the lives of others or himself.

(g) Successfully complete the basic police training curriculum at a council-approved school.

History: 1954 ACS 73, p. 5, Eff. Nov. 10, 1972.

R 28.4103 Examinations, fingerprints, and certificates.

Rule 3. Before sending a person to a council-approved school, the hiring agency shall:

(a) Cause the applicant to be examined by a licensed physician to determine that the applicant meets the standards set forth in subdivision (f) of R 28.4102. A declaration of the applicant's medical history shall be made available to the examining physician and shall become a part of the background investigation.

(b) Cause the applicant to be fingerprinted and a search made of local, state and national fingerprint files to disclose any criminal record.

(c) Conduct an oral interview to determine the applicant's acceptability for a police officer position and to assess appearance, background, and ability to communicate.

(d) Certify that the prospective trainee meets the minimum employment standards set forth in subdivisions (a) to (f) of R 28.4102.

History: 1954 ACS 73, p. 5, Eff. Nov. 10, 1972.

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R 28.4104 Forms.

Rule 4. Form TC-01, entitled "Application for Enrollment in a Certified Academy," shall be completed and forwarded to the appropriate school coordinator before a person will be allowed to attend a council-approved school.

History: 1954 ACS 73, p. 5, Eff. Nov. 10, 1972.

R 28.4105 Practices and standards.

Rule 5. Recruitment and employment practices and standards shall comply with the law applicable to police officer employment.

History: 1954 ACS 73, p. 6, Eff. Nov. 10, 1972.

STATE FIRE SAFETY BOARD

SCHOOL FIRE SAFETY

(By authority conferred on the state fire safety board by section 3c of Act No. 207 of the Public Acts of 1941, as amended, being §29.3c of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 29.1 Scope.

Rule 1. (1) These rules set forth minimum requirements for fire safety in both new school construction and in existing school buildings. They are based on provisions of the national fire protection association pamphlet no. 101, "Life Safety Code," 1970, with necessary clarifications and interpretations, as they apply to school occupancies. Additional requirements appear in Michigan statutes, the school building law, being Act No. 306 of the Public Acts of 1937, as amended, and §§388.851 to 388.855a of the Michigan Compiled Laws, and the fire prevention act, being Act No. 207 of the Public Acts of 1941, as amended, and §§29.1 to 29.25 of the Michigan Compiled Laws. These statutes should be reviewed and complied with.

(2) These rules deal with life safety from fire and other emergencies. They cover construction, protection and occupancy features to minimize danger to life from fire, smoke, fumes, or panic before buildings are vacated. They specify the number, size, and arrangement of exit facilities sufficient to permit prompt escape of occupants from school buildings in case of fire or other conditions dangerous to life.

(3) These rules recognize that life safety is more than a matter of exits and therefore deal with matters besides exits which are essential to life safety and in some situations beyond which the hazard is so great that no practical amount of exits can give assurance of reasonable safety, provide other forms of protection.

(4) These rules relate to fire safety only and do not include other mandatory features of school construction or recommendations relative to school construction required by other agencies.

History: 1954 ACS 74, p. 8, Eff. May 15, 1973.

R 29.2 Applicability.

Rule 2. (1) These rules apply to construction of new school buildings, and additions to, and remodeling and maintenance of existing school buildings, both public and private, and elementary and secondary. They apply to all instructional areas of all institutions of higher education as provided by subsection (1) of section 3c of Act No. 207 of the Public Acts of 1941, as amended.

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(2) Remodeling involving an existing school building, or construction of a school building, does not require an inspection or determination of fire hazard by the state fire marshal if the building is located in a municipality where certification has been made to the department of education as prescribed by subsection (2) of section 3 of Act No. 306 of the Public Acts of 1937, as amended, being §388.853 of the Michigan Compiled Laws.

History: 1954 ACS 74, p. 9, Eff. May 15, 1973.

R 29.3 Modification.

Rule 3. (1) A school board of a public school, school owner of a private or parochial school, or the authorized agent of such school board or school owner, confronted with practical difficulties in carrying out the strict letter of these rules may apply to the state fire marshal in writing, stating the particulars and reasons for any modification requested.

(2) The state fire safety board may vary the application of a rule or modify a ruling or interpretation of the state fire marshal or municipal enforcing authority, if enforcement would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest. The variance or modification shall be consistent with recognized good practices as evidenced by standards adopted by nationally recognized authorities.

History: 1954 ACS 74, p. 9, Eff. May 15, 1973.

R 29.7 Adoption of rules by reference.

Rule 7. (1) These rules at several places adopt by reference all or parts of the following codes, standards or regulations of nationally recognized organizations or associations, identified by date or otherwise:

(a) Available from:
American Insurance Association
85 John Street
New York, New York 10038—Single copies available without charge
"Fire Resistance Ratings," April, 1959 (Revised)

(b) Available from:
American Society for Testing and Materials
1916 Race Street
Philadelphia, Pennsylvania 19103

	Single Copies
"Fire Tests of Building Construction and Materials"	
ASTM standard no. E-119, 1969	$1.50
"Fire Tests of Door Assemblies"	
ASTM standard no. E-152, 1966	1.50
"Method of Test for Measuring the Density of Smoke from the Burning or Decomposition of Plastics"	
ASTM standard no. D-2843, 1970	1.50
"Test for Deflection Temperature of Plastics Under Load"	
ASTM standard no. D-648, 1956	1.50
"Test for Flammability of Self-Supporting Plastics"	
ASTM standard no. D-635, 1968	1.50
"Test for Ignition Properties of Plastics"	
ASTM standard no. D-1929, 1968	1.50
"Test for Surface Burning Characteristics of Building Materials"	

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	Single Copies
ASTM standard no. E-84, 1968	$ 1.50
"Test for Thickness of Solid Electrical Insulation"	
ASTM standard no. D-374, 1968	1.50

(c) Available from:
Department of Education
P.O. Box 420
Lansing, Michigan 48902—Single copies available without charge
School Bulletin 412, 1965 (Revised)

(d) Available from:
Fire Marshal Division
Department of State Police
714 South Harrison Road
East Lansing, Michigan 48823—Single copies available without charge
Liquefied Petroleum Gases
State Uniform Specifications for Fire Escapes

(e) Available from:
National Fire Protection Association
60 Batterymarch Street
Boston, Massachusetts 02110

	Single Copies
"A Method of Measuring Smoke Density"	
NFPA quarterly no. 57-9, January, 1964	$ .35
"Auxiliary Protective Signaling Systems"	
NFPA pamphlet no. 72B, 1967	.60
"Fire Doors and Windows"	
NFPA pamphlet no. 80, 1970	2.00
"Incinerators, Rubbish Handling"	
NFPA pamphlet no. 82, 1970	.75
"Installation of Gas Appliances and Gas Piping"	
NFPA pamphlet no. 54, 1969	1.25
"Installation of Portable Fire Extinguishers"	
NFPA pamphlet no. 10, 1970	1.00
"Installation of Sprinkler Systems"	
NFPA pamphlet no. 13, 1969	2.00
"Installation of Standpipes and Hose Systems"	
NFPA pamphlet no. 14, 1970	.75
"Life Safety Code"	
NFPA pamphlet no. 101, 1970	2.00
"Local Protective Signaling Systems"	
NFPA pamphlet no. 72A, 1967	.60
"Method of Test of Surface Burning Characteristics of Building Materials"	
NFPA pamphlet no. 255, 1969	.50
"National Electrical Code"	
NFPA pamphlet no. 70, 1968	2.00
"Proprietary Protective Signaling Systems"	
NFPA pamphlet no. 72D, 1967	.60
"Protection from Exposure Fires"	
NFPA pamphlet no. 80A, 1970	.75

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	Single Copies
"Spray Finishing Using Flammable and Combustible Materials"	
NFPA pamphlet no. 33, 1969	$ 1.25
"Standard Methods of Fire Tests for Flame-Resistant Textiles and Films"	
NFPA pamphlet no. 701, 1969	.75
"Standard Methods of Fire Tests of Door Assemblies"	
NFPA pamphlet no. 252, 1969	.50
"Standard Types of Building Construction"	
NFPA pamphlet no. 220, 1961	.40
"Ventilation of Cooking Equipment"	
NFPA pamphlet no. 96, 1970	.50
"Water Tanks for Private Fire Protection"	
NFPA pamphlet no. 22, 1970	2.00

(f) Available from:
Sheet Metal and Air Conditioning Contractors National Association, Inc.
Michigan Chapter
P.O. Box 3303
Saginaw, Michigan 48605—Single copies available without charge
State of Michigan Fire Damper Clarification
Fourth Edition, 1972

(g) Available from:
Underwriters' Laboratories, Inc.
207 East Ohio Street
Chicago, Illinois 60611—Single copies available without charge
"UL Building Materials List," 1971
"Fire Dampers"
UL standard no. 555, 1970
"UL Fire Protection Equipment List," 1971
"Test Method for Fire Hazard Classification of Building Materials"
UL standard no. 723, 1960

(2) In addition to these sources for specific codes, standards, or regulations, all of the items listed are available from the State Fire Safety Board, 316B Frandor Avenue, Lansing, Michigan 48912, at prices which may vary subsequent to the promulgation of these rules from the prices set forth in subrule (1).

History: 1954 ACS 74, p. 9, Eff. May 15, 1973.

R 29.11 Definitions; A, B.

Rule 11. (1) "Approved" means acceptable to the state fire marshal or other inspection authorities when acting under subsection (2) of section 3 of Act No. 306 of the Public Acts of 1937, as amended.

(2) "Automatic sprinkler system" means a sprinkler system installed in compliance with the national fire protection association pamphlet no. 13, 1969, installation of sprinkler systems.

(3) "Basement" means a story or floor level below the main or street floor. Where, due to grade differences, there are 2 levels each qualifying as a street floor, a basement is the floor level below the lower of the 2 street floors.

History: 1954 ACS 74, p. 11, Eff. May 15, 1973.

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R 29.12 Definitions; C to E.

Rule 12. (1) "Combustible" means the opposite of noncombustible. See R 29.14(4) for the definition of "noncombustible."

(2) "Commercial type laundry equipment" means a washer, drier, extractor, or ironer designed for commercial work rather than for domestic use.

(3) "Court" means an open, uncovered and unoccupied space, unobstructed to the sky and bounded on 2 or more sides by the exterior walls of a building. "Inner court" means a court bounded on all sides by the exterior walls.

(4) "Emergency lighting" means lighting which will maintain the required exit illumination automatically in case of failure of the public utility electric service or other outside source of energy.

(5) "Exit" means a way of departure from the interior of a school building to the open air outside at the ground level. It may comprise vertical and horizontal means of travel such as a doorway, stairway, ramp, corridor, passageway and fire escape, including all elements necessary for the purpose of emergency escape from the building. An exit begins at a doorway or other point of access to an exit from which occupants may proceed to the exterior of the building with reasonable safety.

History: 1954 ACS 74, p. 11, Eff. May 15, 1973.

R 29.13 Definitions; F.

Rule 13. (1) "Fire alarm system" or fire detection system" means a manual or automatic system indicating a fire emergency requiring immediate action, actuation of which is from a manual fire alarm box or station, water-flow alarm, an alarm from an automatic fire alarm system or other emergency signal consisting of components approved and listed by the underwriters' laboratories, inc., fire protection equipment list, 1971, and installed in compliance with the national fire protection association pamphlet no. 72A, 1967, local protective signaling systems.

(2) "Fire damper" means a damper tested by a nationally recognized testing laboratory in compliance with the American society for testing and materials, standard no. E-152, 1966, fire tests of door assemblies, or underwriters' laboratories, inc., standard no. 555, 1970, fire dampers, for a 1-hour fire-resistance rating, except that where used in a tested floor-ceiling or ceiling-roof design the damper may be of the type tested in the assembly.

(3) "Fire door assembly" means a labeled fire door and labeled frame constructed and installed in compliance with the national fire protection association, pamphlet no. 80, 1970, fire doors and windows, with a latching device, swinging and sliding hardware and closing device labeled or listed in compliance with the listing and reexamination service of an approved nationally recognized testing laboratory.

(4) "Fire-resistance rating" means a rating of a material or assembly of materials having a fire-resistance rating not less than that listed in the American insurance association fire resistance ratings, April, 1959 (revised), or rating label or listing of the underwriters' laboratories, inc., building materials list, 1971, or certified by a nationally recognized independent testing laboratory with proper certification.

(5) "Fire-resistive construction" means a building having walls, ceilings, floors, partitions, and roof of noncombustible materials, and steel members protected by a noncombustible material having a fire-resistance rating of 1 hour. This shall not be construed as prohibiting finished wood flooring, wood door and window frames, wood sash or wood furring.

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(6) "Flameproof" or "flameproofing" means that materials will not readily ignite and will not propagate flame under the test conditions of the national fire protection association pamphlet no. 701, 1969, standard methods of fire tests for flame-resistant textiles and films. Flameproofed materials are usually combustible materials with the addition of some treatment or coating to modify their burning properties.

(7) "Flammable liquid" means a liquid having a flash point below 200 degrees Fahrenheit and having a vapor pressure not more than 40 pounds per square inch, absolute, at 100 degrees Fahrenheit.

(8) "Flexible plan building" means a school building or part of a school building having movable corridor walls and movable partitions of full height construction with doors leading from rooms to corridors.

History: 1954 ACS 74, p. 12, Eff. May 15, 1973.

R 29.14 Definitions; H to N.

Rule 14. (1) "Hazardous occupancy" means those parts of a school building housing the heating plant and incinerators, kitchens, or where combustible materials, flammable liquids, gases or dangerous chemicals are used or stored. Arts and crafts rooms shall be considered a hazardous occupancy.

(2) "Kitchen" means a room with commercial equipment for the preparation of food. It does not include a facility designed for occasional preparation of food with a capacity of not more than 12 meals or a room equipped to warm or maintain heat of food prepared elsewhere.

(3) "May" means permissive within the intent of these rules.

(4) "Noncombustible" means:

(a) A material no part of which will ignite and burn when subjected to fire. A material which liberates flammable gas when heated to a temperature of 1,380 degrees Fahrenheit for 5 minutes is not considered noncombustible.

(b) A material having a structural base of noncombustible material as defined in subdivision (a), with a surfacing not over ⅛ inch thick which has a flame spread rating not higher than 50 in compliance with R 29.122.

(c) A material, other than as described in subdivisions (a) or (b), having a surface flame spread rating not higher than 25 in compliance with R 29.122, without evidence of continued progressive combustion and of such composition that surfaces that would be exposed by cutting through the material in any way would not have a flame spread rating higher than 25 without evidence of continued progressive combustion.

History: 1954 ACS 74, p. 12, Eff. May 15, 1973.

R 29.15 Definitions; O, P.

Rule 15. (1) "Open plan building" means a school building or part of a building not having corridors in compliance with R 29.61(5) and which has furniture, fixtures and partitions not more than 7 feet high, but in no case extending less than 2 feet from the ceiling, arranged so that exits shall be clearly visible and unobstructed and exit paths are direct, not circuitous. If paths are established they shall be at least as wide as required by R 29.61(1) and (3). A separated area for more than 20 persons within an open plan section of a building shall have an area open to the balance of the open plan section equivalent to not less than 15% of its perimeter surface unless the area is provided with protected egress in compliance with R 29.45.

(2) "Plenum" means an air compartment or chamber to which 1 or more ducts are connected or which is part of an air distribution system.

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(3) "Private school" means an educational institution which students attend in lieu of public school attendance.

(4) "Public assembly place" means a lecture room, gymnasium, cafeteria, swimming pool, or a room or inner court subject to occupancy by 100 or more persons.

History: 1954 ACS 74, p. 13, Eff. May 15, 1973.

R 29.16 Definitions; R to W.

Rule 16. (1) "Remodeling" means an alteration, installation or work provided for in the fire safety provisions of the school building law and the applicable parts of these rules, except an alteration, installation, or work being performed under the provisions of R 29.201(1).

(2) "School building" or "building" means a building or structure used by 6 or more students for instruction such as a school, university, college, or academy. In areas where instruction is incidental to some other occupancy the fire safety requirements for that occupancy shall apply.

(3) "Smoke detection system" means an automatic system indicating the presence of an abnormal smoke density in a space or area, actuating the fire alarm system and consisting of components approved and listed by the underwriters' laboratories, inc., fire protection equipment list, 1971, and installed in compliance with the national fire protection association pamphlet no. 72A, 1967, local protective signaling systems.

(4) "Stairway" or "stair" (open or enclosed) means a series of steps or a flight of steps and the necessary landing and platform for passing from 1 level to another.

(5) "Story" means that part of a building between a floor and the floor or roof next above. "First story" means the lowest portion of the building meeting the requirements of a street floor. A basement is a story, except that an understage area or room below a gymnasium balcony or permanent gymnasium seating is not a story if such area or room walls and floor above are of noncombustible construction having a 1-hour fire-resistance rating.

(6) "Street floor" means the lowest story or floor level of a building, the ceiling of which is located 5 feet or more above ground level for more than 25% of the perimeter of that story or floor level.

(7) "Wired glass" means glass not less than ¼ inch thick, reinforced with wire mesh, no. 24 gauge or heavier, with spacing not greater than 1 square inch.

History: 1954 ACS 74, p. 13, Eff. May 15, 1973.

R 29.19 Rescinded and superseded provisions.

Rule 19. (1) The rules of the director of the Michigan state police entitled "School Fire Safety," being R 28.3201 to R 28.3218 of the Michigan Administrative Code and appearing on pages 2129 to 2140 of the 1961 Annual Supplement to the Code, are rescinded.

(2) These rules supersede chapter 9, safety factors and standards, bulletin number 412 (revised 1965) of the Michigan department of education.

History: 1954 ACS 74, p. 13, Eff. May 15, 1973.

PART 2. NEW AND EXISTING SCHOOLS

R 29.21 Applicability of part 2.

Rule 21. Except as provided in part 3, this part applies to new school buildings, remodeling or alterations to existing buildings and additions thereto.

History: 1954 ACS 74, p. 13, Eff. May 15, 1973.

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R 29.22 General safety.

Rule 22. A school building shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes or resulting panic during the time reasonably necessary for escape from fire or because of other emergency.

History: 1954 ACS 74, p. 14, Eff. May 15, 1973.

R 29.25 Plans and specifications; approval.

Rule 25. (1) Where services of an architect or engineer are not required a school authority shall submit plans for new construction, remodeling, alterations, or permanent renovations to the department of education.

(2) Before construction, reconstruction, or remodeling of a school building is commenced, written approval of all plans and specifications shall be obtained from the department of education. The department will not issue an approval until approval of the state fire marshal or appropriate municipal official, or certification as described in section 3 of the school building law has been secured in writing relative to factors concerning fire safety and approval of the department of public health having jurisdiction relative to factors affecting water supply, sanitation and food handling.

(3) A school building construction project let out for contractor bidding on the basis of preliminary plan clearance but before final plans and specifications have been approved, shall be let out with the firm understanding that required approval of the project has not been obtained.

(4) If an approved designated occupancy is changed during planning or construction to another occupancy, all fire protection requirements for the new occupancy shall be complied with.

(5) Preliminary plan approval given before the effective date of these rules will terminate 6 months after the effective date of these rules, except that an approval extension may be granted in a specific instance upon written request to the state fire marshal.

History: 1954 ACS 74, p. 14, Eff. May 15, 1973.

R 29.26 Architects and engineers.

Rule 26. Plans and specifications for school building construction costing $15,000.00 or more shall bear the seal of and be prepared by a registered architect or engineer in compliance with the school building law.

History: 1954 ACS 74, p. 14, Eff. May 15, 1973.

R 29.27 Inspections during construction.

Rule 27. (1) During construction of a school building the architect or engineer shall notify the state fire marshal or authorized local officials when the building is ready for inspection to determine compliance with these rules. Notice for the first inspection shall be given when the building is framed and before lathing, plastering, installation of ceilings and ceiling assemblies or any concealment of roof or floor joists. Notice of completion of the building and readiness for inspection is required for approval for occupancy.

(2) Where services of an architect or engineer are not required, the school authority shall notify the state fire marshal or authorized local officials when the building is ready for inspection.

(3) It is unlawful to occupy a newly constructed school building or addition to an existing building except as provided in R 29.29 and with written approval.

History: 1954 ACS 74, p. 14, Eff. May 15, 1973.

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R 29.28 Plans for additions, remodeling, and alterations.

Rule 28. Plans for an addition, remodeling, or alteration to an existing school building shall include parts of the building being changed, showing existing exits, existing type of construction and room occupancies which may be affected by the changes.

History: 1954 ACS 74, p. 14, Eff. May 15, 1973.

R 29.29 Occupancy during construction and repair.

Rule 29. (1) A school building under construction shall not be occupied in whole or in part until all exit facilities required for the part occupied are completed and approved for use, and the occupied part is separated from the part under construction by a wall having a 1-hour fire-resistance rating.

(2) A school building shall not be occupied during repairs or alterations unless existing exits and fire protection equipment are retained, or in lieu thereof, other measures are taken which provide equivalent safety.

(3) Flammable or explosive substances or equipment for repairs or alterations shall not be introduced in or on a school building of normally low or ordinary hazard classification while the building is occupied, unless the conditions of use and safeguards provided offset any additional danger or handicap to egress.

(4) A required exit, way of approach thereto and way of travel from the exit to the street or open space, shall be maintained free of all obstructions or impediments so it is available for full instant use as required by R 29.41(2).

(5) A required automatic sprinkler system, fire detection and alarm system, exit lighting, fire door and other items of equipment required in the occupied section shall be maintained in proper operating condition.

History: 1954 ACS 74, p. 14, Eff. May 15, 1973.

R 29.31 Construction; general provisions.

Rule 31. (1) A school building or an addition to a building of more than 1 story shall be of fire-resistive construction with all steel structural members protected with materials having a 1-hour fire-resistance rating.

(2) A wall having a 2-hour fire-resistance rating with not less than a B labeled fire door assembly in an opening shall be provided between a building of combustible construction and a building of noncombustible construction if the buildings are multistory.

(3) Forming materials left in place as a part of a permanent school building shall be noncombustible in a building of more than 1 story and noncombustible in a 1-story building in those areas required to be fire resistive. In no case shall such material be more hazardous than class C as defined in R 29.122.

(4) A subdivision of a building of mixed occupancy separated both horizontally and vertically by construction having a 4-hour fire-resistance rating may be classified as a separate building. An opening in a required fire wall shall be protected by a class B labeled fire door assembly.

(5) A folding type partition used as a separation in a room or between rooms, shall comply with R 29.122 and R 29.123 for areas of use, and in a multistory section of a building shall be of noncombustible material, except that underwriters' laboratories, inc. labeled impregnated wood or other material which conforms to class B in R 29.122 is acceptable.

History: 1954 ACS 74, p. 15, Eff. May 15, 1973.

R 29.32 Fire-resistive assemblies; doors and frames.

Rule 32. An assembly required to be fire resistive shall comply with fire ratings established by the American insurance association, fire resistance ratings, April,

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1959 (revised), or with the underwriters' laboratories, inc., building materials list, 1971, or listed by a nationally recognized independent testing agency. Fire door assemblies shall be tested in compliance with the national fire protection association pamphlet no. 252, 1969, standard methods of fire tests of door assemblies, and bear the label of a nationally independent testing agency that provides inspection services.

History: 1954 ACS 74, p. 15, Eff. May 15, 1973.

R 29.33 Roof, ceiling, and attic construction.

Rule 33. (1) A fire-resistive ceiling, constituting an essential part of a floor or roof assembly, to meet the required fire-resistance rating shall be installed as tested and may only have openings to accommodate ducts or recessed electrical fixtures as indicated in the tested design. A duct opening shall be protected with the tested assembly or dampers constructed in compliance with R 29.13(2). An opening in a ceiling for an electrical box for a surface mounted or suspended fixture shall not be more than 16 square inches for each 90 square feet of ceiling area. In only a roof-ceiling assembly, a ceiling-floor assembly will be acceptable with the roof deck of any noncombustible material.

(2) In 1-story construction, an open combustible attic section, regardless of depth of area between the ceiling and roof, shall be subdivided into areas not more than 3,000 square feet, by an assembly of materials having a 1-hour fire-resistance rating.

History: 1954 ACS 74, p. 15, Eff. May 15, 1973.

R 29.35 Occupant loads.

Rule 35. (1) A school building or an individual story or part thereof for the purpose of determining exit dimensions shall not have less than 20 square feet per person of net classroom area or 50 square feet per person of net area of school shops and similar vocational rooms.

(2) The occupant load of an area having fixed seats shall be determined by the number of fixed seats installed. Required aisle space serving the fixed seats shall not be used to increase the occupant load.

(3) The occupant load of a school building or part thereof may be increased over that specified in subrule (1) if the necessary aisles and exits are provided. An aisle or seating diagram may be required for approval to increase the occupant load.

History: 1954 ACS 74, p. 15, Eff. May 15, 1973.

R 29.36 Occupant loads for rooms for more than 100 persons.

Rule 36. (1) The occupant load permitted in a public assembly place or part thereof shall be determined by dividing the net floor area or space assigned to that use by the square feet per occupant as follows:

(a) A public assembly place of concentrated use without fixed seats such as an auditorium, chapel, area used as a dance floor, or club room, 7 square feet per person.

(b) A public assembly place of less concentrated use such as a conference room, dining room, exhibit room, gymnasium or lounge, 15 square feet per person.

History: 1954 ACS 74, p. 16, Eff. May 15, 1973.

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R 29.41 Exits and other safeguards.

Rule 41. (1) A school building shall be provided with exits sufficient to permit the prompt escape of occupants in case of fire or other emergency. Exits and other safeguards shall be designed so that reliance for safety to life in case of fire or other emergency will not depend solely on any single safeguard. Additional safeguards shall be provided for life safety in case any single safeguard is ineffective due to human or mechanical failure.

(2) A school building shall be provided with exits of kinds, numbers, location and capacity appropriate to the building, with due regard to the character of the occupancy, the number of persons exposed, the fire protection available and the height of the building, to afford all occupants convenient facilities for escape.

(3) Compliance with these rules shall not be construed as eliminating or reducing the necessity for other provisions for safety of persons such as physically handicapped students using a school building under normal occupancy conditions.

History: 1954 ACS 74, p. 16, Eff. May 15, 1973.

R 29.42 Exits; general provisions.

Rule 42. (1) School building exits shall be arranged and maintained to provide free and unobstructed egress from all parts of the building.

(2) Exits shall be located and exit access shall be arranged so that exits are readily accessible at all times. Where exits are not immediately accessible from an open floor area, safe and continuous passageways, aisles or corridors leading directly to not less than 2 exits by separate ways of travel shall be maintained, except when a single exit is permitted by R 29.43(5), R 29.44(3), R 29.48(1), R 29.56(5), and R 29.92(2).

(3) A required primary exit shall not be through an inner court. A secondary means of egress may be permitted through an inner court, when:

(a) The court has a minimum dimension of 45 feet, and

(b) The courtyard has 2 widely separated means of egress, 1 of which leads directly into an egress corridor, with doors hung to swing in the direction of egress.

(4) An exit shall discharge directly to the street, a yard, court or other open space that gives access to the street. A street to which an exit discharges shall be of adequate width to accommodate all persons who may leave the building by that exit. A yard, court or other open space to which an exit discharges shall also be of adequate width and size to provide all persons leaving the building with ready access to the street.

(5) A vertical way of exit and other vertical opening between floors of a school building shall be suitably enclosed or protected to afford reasonable safety to occupants while using the exit and to prevent spread of fire, smoke or fumes through the vertical opening from floor to floor before occupants have been discharged from exits.

History: 1954 ACS 74, p. 16, Eff. May 15, 1973.

R 29.43 Exits; number.

Rule 43. (1) A school building or part thereof of such size, occupancy and arrangement that the reasonable safety of its occupants may be endangered by the blocking of any single means of egress due to fire or smoke, shall have not less than 2 means of egress remote from each other, arranged to minimize any possibility that both may be blocked by any 1 fire or other emergency, except as provided in subrule (5).

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(2) A school building and every floor, part or room thereof considered separately, shall have exits sufficient to provide for the capacity thereof, comprised of 1 or more types of exits as follows:

(a) A door leading directly outside the building at grade level or not more than 3 risers above or below grade, 100 persons per unit of exit width.

(b) A door leading outside the building but requiring steps of more than 3 risers to reach grade, 100 persons per unit of exit width. Steps shall have ⅓ more units of exit width than doors to allow for slower travel rate.

(c) Stairs, 60 persons per unit of exit width. See R 29.51(9) for a public assembly place.

(d) Ramps, 100 persons per unit of exit width.

(3) The same exit units or fraction thereof required for an individual floor may be counted as simultaneously serving all floors above the first story or street floor.

(4) Where exits serve more than 1 floor, only the population of each floor considered individually needs to be used in computing the capacity of the exits at that floor, but exit capacity shall not be decreased in the direction of exit travel. If means of egress from floors above and below converge at an intermediate floor, the capacity of the exit from the point of convergence shall be not less than the sum of the 2.

(5) Not less than 2 separate exits shall be available from each floor as remote from each other as practicable and arranged so there will be no dead ends. However, a tower room for not more than 20 persons and designed so that no point is more than 30 feet from the exit, may be permitted to have 1 exit only if the exit is into a stairway protected directly to the exterior at grade.

(6) A student occupied room having an inherent fire hazard shall have 2 means of egress in compliance with R 29.48(4). This includes a shop, science laboratory, cooking area of a homemaking suite and similar facility and an area with 3 or more gas outlets.

(7) Separate exits shall be provided from a stage sufficient for its occupancy, without entering the main part of an auditorium or gymnasium.

History: 1954 ACS 74, p. 16, Eff. May 15, 1973.

R 29.44 Distance to exits.

Rule 44. (1) In a building without complete automatic sprinkler protection, travel distance to the exterior or an enclosed stairway from any point in the building shall not be more than 150 feet. In a building with complete automatic sprinkler protection, travel distance to the exterior or an enclosed stairway from any point in the building shall not be more than 250 feet. For an open plan building see R 29.105(2).

(2) The distance to an exit shall be measured on the floor or other walking surface along the center line of the natural path of travel, starting 1 foot from the most remote point, curving around any corners or obstructions with 1 foot clearance therefrom and ending at the center of the doorway or other point at which the exit begins. Where measurement includes stairs, it shall be taken in the plane of the tread nosing.

(3) In an open area the distance to an exit shall be measured along the path of travel from the most remote point subject to occupancy. In a room for not more than 20 persons the distance to an exit shall be measured from the door of the room, but the path of travel from any point in the room to the door shall not be more than 50 feet.

(4) Where an open stairway is permitted as a path of travel to a required exit, such as between a balcony and the floor below, the distance shall include the

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travel on the stairway and travel from the end of the stairway to reach an outside door or other exit in addition to the distance to reach the stairway.

History: 1954 ACS 74, p. 17, Eff. May 15, 1973.

R 29.45 Exit visibility and obstructions.

Rule 45. (1) An exit shall be clearly visible or the route to reach it shall be conspicuously indicated in a manner that every occupant will readily know the direction of escape from any point in the school building. Each path of escape, in its entirety, shall be arranged or marked so that the way to a place of safety outside is unmistakable. A doorway or passageway not constituting an exit or way to reach an exit, that may be mistaken for an exit, shall be arranged or marked to minimize possible confusion with an exit and the resultant danger of persons endeavoring to escape finding themselves trapped in a dead end space from which there is no exit.

(2) Ways of exit access and the doors to exits to which they lead shall be designed and arranged to be clearly recognizable as such. No hanging draperies shall be placed over an exit door or otherwise located to conceal or obscure an exit. No mirror shall be placed in, on, or adjacent to an exit in a manner to confuse the direction of exit.

(3) An exit, way of approach thereto and way of travel from an exit into a street or open space shall be maintained free of all obstructions or impediments so it is available for full instant use.

History: 1954 ACS 74, p. 17, Eff. May 15, 1973.

R 29.46 Exit lights.

Rule 46. (1) In a school building equipped for artificial illumination, lighting shall be provided for exit facilities to a value of 1 foot candle measured at the floor.

(2) A required corridor exit shall be designated with a clearly distinguishable exit sign and directional exit signs shall be installed where needed. An illuminated exit sign shall be installed at a required exit from a public assembly place.

(3) An illuminated exit sign circuit shall be installed in metal conduit on a separate circuit placed ahead of the main line switch and be supplied through the emergency panel. Other wiring shall not be in the same raceway or conduit which serves the exit lights and emergency exit lighting.

History: 1954 ACS 74, p. 18, Eff. May 15, 1973.

R 29.47 Exit dimensions.

Rule 47. (1) A means of egress shall be measured in units of exit width of 22 inches. A fraction of a unit shall not be counted, except that 12 inches added to 1 or more full units shall be counted as ½ of a unit of exit width.

(2) A unit of exit width shall be measured in the clear at the narrowest point of the means of egress, except that a handrail may project inside the measured width on each side not more than 3½ inches and a stringer may project inside the measured width not more than 1½ inches. An exit or exit access door swinging into an aisle or passageway shall not restrict the effective width thereof at any point during its swing to less than the minimum widths specified in R 29.43(2) and (4).

(3) An exit and way of exit access shall be designed and maintained to provide adequate headroom but in no case shall the ceiling height be less than 7 feet 6 inches, nor any projection from the ceiling be less than 6 feet 8 inches from the floor.

History: 1954 ACS 74, p. 18, Eff. May 15, 1973.

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R 29.48 Exit doors.

Rule 48. (1) A door from a classroom or other student occupied room, shall enter the corridor between exits or there shall be direct egress to the outside from the room. However, an instructional area or workroom for not more than 20 persons in another room and not having its own corridor or outside exit shall comply with R 29.44(3).

(2) A door from a room to an exit or to a way of exit access shall be of the sidehinged, swinging type. It shall swing with exit travel if the room is for more than 20 persons.

(3) Required exit travel shall not be through openings protected with sliding, folding or roll down doors.

(4) Two doorways as remote from each other as practicable and as remote as ½ of the longest dimension of the room shall be provided for: (a) a classroom or space for more than 50 persons or more than 1,000 square feet in area, (b) a vocational room, laboratory space and locker room for more than 50 persons or more than 1,500 square feet in area and (c) a library for more than 50 persons or more than 2,000 square feet in area. The doorways shall provide access to separate exits, but where egress is through corridors, may open upon a common corridor leading to separate exits in opposite directions. One doorway may be through an adjoining classroom with a connecting door hung to swing in the direction of egress and shall not have locking hardware. If the door is to serve a second means of egress from both rooms it shall be glazed for vision and hung to swing in both directions.

History: 1954 ACS 74, p. 18, Eff. May 15, 1973.

R 29.51 Public assembly places.

Rule 51. (1) A public assembly place shall have exits to comply with its use capacity. A swimming pool used for spectator assembly shall also be treated as a public assembly place.

(2) A public assembly place for 1,000 persons or more shall not have less than 4 approved means of egress as remote from each other as practicable.

(3) A public assembly place for 500 persons to less than 1,000 persons shall not have less than 3 approved means of egress as remote from each other as practicable.

(4) A required exit from a public assembly place shall not be through another occupied area.

(5) In an open plan building if the open plan portion is adjacent to a public assembly place the assembly place shall have sufficient exterior exits for its occupancy.

(6) An individual unit of exit width shall not serve more than 100 persons.

(7) A door leading outside of a school building at grade level, or not more than 3 risers above or below grade, or ramps, shall not serve more than 100 persons per exit unit.

(8) A stairway or other type of exit shall not serve more than 75 persons per exit unit.

(9) Draperies and decorative materials in a public assembly place shall be of flameproof material or be treated with an approved flameproofing material.

History: 1954 ACS 74, p. 18, Eff. May 15, 1973.

R 29.52 Public assembly place exits in connection with closed corridors.

Rule 52. (1) If the remainder of a school building is of closed corridor exit plan, 50% of the required exits from a public assembly place shall be directly to the

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outside or protected from the remainder of the building by construction and fire door assemblies having a ¾-hour fire-resistance rating, except in a building completely protected by an automatic sprinkler system. Such a fire door in a cross corridor partition may be held open if:

(a) Upon release the door becomes self-closing.

(b) An approved release device is provided and arranged so that upon an interruption of electric current the door will be released.

(c) An automatic sprinkler system or a fire detection system is provided.

(d) The electric current will be positively interrupted by: (i) operation of an automatic sprinkler system which protects the entire building, including both sides of any horizontal exit, the door of which is held open by any release so controlled; (ii) operation of an automatic fire detection system installed to protect the entire building, which will activate the system promptly to preclude the generation of heat or smoke sufficient to interfere with exit before the system operates; or (iii) operation of an automatic smoke detection system installed to detect smoke or other products of combustion on both sides of the door opening.

(e) The release device is designed so that it may be instantly released manually by some simple and readily obvious operation.

(2) In an otherwise acceptable arrangement of 2 or more classrooms being separated by folding partitions, the requirements concerning panic hardware and 50% of required exits to be direct to or protected to the outside, shall be waived if the large space provided by folding back all partitions is not a conventional public assembly place and is not used for more than the number of students normally using the space as individual classrooms.

History: 1954 ACS 74, p. 19, Eff. May 15, 1973.

R 29.53 Public assembly place balconies.

Rule 53. (1) If the seating capacity of a balcony in a public assembly place is for more than 500 persons, 3 separate exits shall be provided.

(2) Where a balcony area is divided by a folding wall into 2 teaching areas, a connecting door shall be placed in the wall or other provisions made so that both portions of the balcony shall have 2 approved means of egress.

(3) If a partition is used to separate a balcony from its main floor area, the stairway serving the balcony area shall be protected to the exterior at grade.

(4) Where a balcony area is exposed to a multistory building above the first floor, there shall be a separation having not less than a ¾-hour fire-resistance rating.

(5) The fascia of a box, balcony and gallery shall have a substantial railing not less than 26 inches high above the floor.

(6) The railing at the end of an aisle extending to the fascia shall not be less than 30 inches high, or 36 inches high if at the foot of the steps, and extend for the width of the aisle.

(7) A cross aisle, except where the backs of seats on the frontside of the aisle project 24 inches or more above the floor of the aisle, shall be provided with railings not less than 26 inches high.

History: 1954 ACS 74, p. 19, Eff. May 15, 1973.

R 29.54 Public assembly place fixed seating; length of rows.

Rule 54. (1) A continuous row of seats between aisles in a public assembly place shall not have more than 14 seats except as authorized in subrule (2) and R 29.55(2).

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(2) A row of 100 or more seats, whether or not continuous, shall have 1 exit along each side aisle for each 5 rows of seats and each exit shall have a clear width of 66 inches.

(3) A row of seats opening on an aisle at 1 end only shall not have more than 8 seats.

(4) The number of seats in seating without dividing arms shall be determined by allowing 18 inches per person.

(5) Each seat in a row of any length shall comply with R 29.44.

History: 1954 ACS 74, p. 19, Eff. May 15, 1973.

R 29.55 Public assembly place fixed seating; spacing between rows.

Rule 55. (1) Except as provided in subrule (2), spacing in a public assembly place of rows of seats from back to back shall not be less than 33 inches, nor less than 27 inches plus the sum of the thickness of the back and inclination of the back. A space of not less than 12 inches shall be provided between the back of 1 seat and the front of the seat immediately behind it as measured between plumb lines.

(2) Spacing in a public assembly place of rows of seats having more than 14 continuous seats between aisles shall provide a clear space between rows measured horizontally, with automatic or self-rising seats measured in the seat-up position and other seats measured in the seat-down position, as follows:

Rows	Space
15 - 18 seats	18 inches
19 - 35 seats	20 inches
36 - 45 seats	21 inches
46 seats or more	22 inches

(3) A seat having a tablet arm shall have a clear space between rows measured from the end of the tablet arm when the arm is in the up position.

History: 1954 ACS 74, p. 20, Eff. May 15, 1973.

R 29.56 Public assembly place aisles.

Rule 56. (1) An aisle in a public assembly place shall not be less than 3 feet wide if serving seats on 1 side only, and not less than 3 feet 6 inches wide if serving seats on both sides. If serving 60 seats or less, an aisle may not be less than 2 feet 6 inches wide. This minimum width shall be measured at the point farthest from an exit, cross aisle or foyer and shall be increased in width by 1¼ inches for each 5 feet in length to the exit, cross aisle or foyer.

(2) An aisle shall terminate in an exit, cross aisle or foyer either of which has a width not less than the sum of the required width of the widest aisle plus 50% of the total required width of the remaining aisles which it serves.

(3) With fixed seating as prescribed in R 29.55, a side aisle shall not be less than 44 inches wide.

(4) A dead end aisle shall not be more than 20 feet long.

(5) Steps shall not be placed in an aisle to overcome differences in level unless the gradient is more than 1 foot of rise in 8 feet of run. Steps in an aisle shall conform to the requirements for a stairway as to riser and tread.

(6) The gradient of a sloping aisle shall not be more than 1 foot of rise in 8 feet of run.

History: 1954 ACS 74, p. 21, Eff. May 15, 1973.

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R 29.61 Corridors.

Rule 61. (1) A corridor shall not be less than 6 feet wide in the clear.

(2) The swing of room doors into corridors shall be in the direction of egress and shall not encroach upon the clear width of the passageway at the termination of its swing except that a door may project not more than 8 inches into the corridor at the termination of its swing. Where the provision of sufficient depth for a full recess is not feasible, doors shall be hung flush with the face of the corridor walls so that they may swing 180 degrees against the walls in the direction of normal egress travel to the nearest exit. However, the requirements as to direction of door swing do not apply to a room for 20 persons or less.

(3) A drinking fountain or other fixed movable equipment shall not be placed to obstruct the required corridor width.

(4) Where a single way of exit access leads to an exit, its capacity in terms of width shall be at least equal to the required capacity of the exit to which it leads. Where more than 1 way of exit access leads to an exit, each shall have a width adequate for the number of persons it is required to accommodate.

(5) A required corridor separation, except in a corridor serving a place of public assembly, shall have a ½-hour fire-resistance rating and be carried to the floor or roof above. Openings in the separation shall be protected accordingly. A door for a room into a corridor shall be 1¾ inches thick and of solid bonded core wood or the equivalent. See R 29.81 and R 29.82 for requirements for labeled fire door assemblies for rooms requiring additional protection. One-quarter inch wired glass shall be approved if installed in steel frames, or in wood frames or stops if hardwood material not less than ¾-inch actual dimension and not more than 1,296 square inches per panel and no dimension more than 54 inches is used. An assembly of materials tested and approved in compliance with the American society of testing and materials, standard no. E-119, 1969, fire tests of building construction and materials, shall be approved. Corridor protection is not required when all occupied areas exposed to the corridor have 1 door directly to the outside as described in R 29.126(1). A required corridor serving a public assembly place shall comply with R 29.52.

(6) A required corridor serving a public assembly place shall be protected from the remainder of the building by construction and doors having a ¼-hour fire-resistance rating. A door, duct opening and wired glass shall comply with subrule (5). R 29.81 and R 29.82 include separations requiring additional protection.

(7) A corridor shall be continuous to exterior exits and shall not pass through rooms as part of the required means of egress.

History: 1954 ACS 74, p. 20, Eff. May 15, 1973.

R 29.63 Corridor lockers, wardrobes, racks, and shelves.

Rule 63. A corridor locker or a wardrobe shall be constructed of noncombustible material. An open coat rack is not permitted. A locker or a wardrobe shall be constructed to assure that clothing, footwear and books will be contained within its area and that the corridor egress required width will be maintained.

History: 1954 ACS 74, p. 21, Eff. May 15, 1973.

R 29.65 Student toilets.

Rule 65. A student toilet room with walls of corridor fire-resistive construction carried to the floor or roof above, having approved corridor finish throughout and a mechanical exhaust system adequate to prevent effectively movement of air into the corridor, may be considered as an extension of the corridor system allowing corridor doors to be omitted. A waste disposal receptacle shall be of substantial

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metal construction to withstand abuse, and securely fastened to the wall or recessed, maintaining the required wall separation, and protected by an automatic sprinkler system.

History: 1954 ACS 74, p. 21, Eff. May 15, 1973.

R 29.71 Exit doors; general.

Rule 71. (1) An exit door shall be of the swinging type and shall swing in the direction of exit travel from a room or space for more than 20 persons.

(2) A door giving access to a stairway shall swing in the direction of exit travel. A door during its swing shall not block a stairway or a landing and shall not at any point in its swing reduce the effective width of the stairway or landing to less than 20 inches, nor when open interfere with full use of the stairway.

(3) A screen door or storm door in connection with a required exit shall not swing against the direction of exit travel.

(4) A double action door shall not be permitted in an exitway, except as specified in R 29.48(4).

(5) A revolving door shall not be used as an exit.

(6) An exterior door shall be provided for a room housing physically handicapped children on a group basis, where the handicap impairs mobility.

History: 1954 ACS 74, p. 21, Eff. May 15, 1973.

R 29.72 Exit door dimensions.

Rule 72. (1) An exit door shall not be less than 6 feet 8 inches high.

(2) In determining units of exit width for an exit door, only the actual width of the door leaf shall be measured. A projection into the doorway by a doorstop or the hinge stile shall be disregarded.

(3) Where an exit door has 2 or more leaves separated by mullions, the allowable units of exit width for the entire door shall be the sum of the units of exit width calculated separately for each individual leaf in the opening.

(4) A single door from a classroom to a corridor, from a classroom to the outside, or from a corridor to the outside, shall not be less than 36 inches nor more than 48 inches wide.

(5) A single leaf in a double exit door with or without a mullion shall not be less than 30 inches wide.

History: 1954 ACS 74, p. 21, Eff. May 15, 1973.

R 29.73 Exit door floors and glazing.

Rule 73. (1) The floor on both sides of an exit door shall be substantially level and shall have the same elevation for a distance on each side not less than the width of the widest single leaf of the door. If the exit door discharges to the outside or other exterior exit or exit access, the floor level outside the door may be 1 step lower than inside, but not more than 7½ inches lower.

(2) If an exterior door from a corridor or public assembly place is glazed for visibility, the glazing shall be shatterproof or of wired glass, unless the glazing is located not less than 6 inches above the opening hardware. This also applies to an interior vestibule door.

History: 1954 ACS 74, p. 22, Eff. May 15, 1973.

R 29.74 Exit doors operated by power.

Rule 74. Where a required exit door is operated by power, such as a door with photoelectric actuated mechanism to open the door upon approach of a person or a door with power-assisted manual operation, in case of power failure the door

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shall be manually openable to permit exit travel or closeable where necessary to safeguard the means of egress. A door operated by power shall not be counted as a required exit unless it swings in the direction of exit travel by mechanical or manual means.

History: 1954 ACS 74, p. 22, Eff. May 15, 1973.

R 29.75 Door frames and hardware; general.

Rule 75. (1) A single or double door separating a room from a required exit corridor shall be installed in a fully stopped frame, be equipped with latching hardware and be nonlocking against egress. As an exception, a toilet room door may have push-pull hardware and one or more closing devices.

(2) A latch shall be actuated by knobs not less than 2 inches in diameter which will release the latch by turning either way, a lever not less than 4¼ inches long measured from the center of the cylinder, or panic hardware.

(3) A set of double doors without a mullion if exposing a required exit corridor shall be equipped with an astragal and one or more synchronizing closing devices or shall be equipped with hardware underwriters' laboratories, inc., approved for use without an astragal and synchronizing device. If such approved hardware is used the total assembly shall comply with underwriters' laboratories, inc., specifications.

(4) Hardware on an exit door from an elementary grade room shall be installed low enough for easy operation by children.

History: 1954 ACS 74, p. 22, Eff. May 15, 1973.

R 29.76 Latching hardware for single means of egress.

Rule 76. An area subject to occupancy with a single means of egress equipped with latching hardware, with no other provisions for emergency exiting, way out or emergency window, shall have latching hardware which may be opened without the use of tools if the primary latch or bolt actuating mechanism fails. This requirement will be satisfied by having 2 completely independent latch or bolt withdrawal systems, each capable of withdrawing the same latch or bolt. The point at which the systems apply pressure to the latch or bolt shall be attached to the latch unit in a manner which is capable of withstanding a pulling force of 1,000 pounds without deformation or failure. This latching hardware shall be identified by the registered mark of a nationally recognized independent testing laboratory located on the exposed flat surface of the latch bolt.

History: 1954 ACS 74, p. 22, Eff. May 15, 1973.

R 29.77 Panic hardware for doors.

Rule 77. (1) A required exit door and room door for 100 or more persons shall be operated by panic hardware. A required exit door for an area for less than 100 persons may be equipped with the same knob-operated schoolhouse-type lock as is used on classroom doors leading to a corridor, with no provision for locking against egress from the classroom. See also R 29.52(2).

(2) If an exit door is required to be equipped with panic hardware, the panic hardware shall cause the door latch to release when pressure of not more than 15 pounds is applied to the releasing device in the direction of exit travel. The releasing device shall be a bar or panel extending not less than ⅓ of the width of the door and placed at a suitable height, not less than 30 inches nor more than 44 inches above the floor. Only approved panic hardware shall be used on an exit door.

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(3) Required panic hardware shall not be equipped with a locking or dogging device, set screw or other arrangement which can be used to prevent release of the latch when pressure is applied to the bar.

(4) A lock, padlock, hasp, bar chain or other device or combination thereof shall not be installed or maintained during occupancy by other than custodial personnel on, or in connection with, a door on which panic hardware is required if such device prevents, or is intended to prevent, free use of the door for exit purposes.

History: 1954 ACS 74, p. 22, Eff. May 15, 1973.

R 29.81 Fire door assembly resistance ratings.

Rule 81. A fire door assembly without a hold-open device shall be provided as follows:

(a) A fire door assembly to a stairway or ramp serving more than 2 stories shall be underwriters' laboratories, inc., C labeled or factory mutual ¾-hour labeled.

(b) A door in a wall having a 1-hour fire-resistance rating shall be a B labeled door or a 1½-hour labeled fire door assembly.

(c) An opening in a fire wall shall be protected by a fire door assembly having a 1-hour fire-resistance rating.

History: 1954 ACS 74, p. 23, Eff. May 15, 1973.

R 29.82 Fire door frames and hold-open devices.

Rule 82. (1) A labeled fire door assembly shall be installed in a fully stopped frame, except that an unlabeled single-type steel channel frame may be used for a labeled fire door not of wood or plastic composite type if clearly indicated and specified in plans.

(2) A hold-open device, such as fuse link equipment, shall not be permitted on a fire door, except time-lag, self-closing hardware that will hold a fire door, other than a stairway and ramp enclosure door, open for not more than 2 minutes before closing the door automatically.

History: 1954 ACS 74, p. 23, Eff. May 15, 1973.

R 29.83 Fire door hardware.

Rule 83. (1) Locks, bolts, and panic hardware, if used on a fire door assembly, shall be labeled or listed in compliance with the listing and reexamination service of an approved nationally recognized testing laboratory.

(2) A door in a stair enclosure wall shall be provided with approved positive latching means to hold it in the closed position against the pressure of expanding fire gases.

(3) A fire door and smoke barrier door shall be provided with a reliable self-closing mechanism, and shall not at any time be secured in the open position except as permitted by R 29.52(1) or R 29.82(2). A corridor door into a stairway or ramp shall bear a sign reading substantially as follows:

Fire Door
Keep Closed

(4) Fire doors used in pairs without a mullion shall be equipped with an astragal and synchronizing closing hardware or shall be equipped with hardware for use without an astragal and synchronizing device in compliance with subrule (1), except in an opening enclosing a nonstudent room such as a storage room, receiving room, machine room, heating plant room, transformer room, and incinerator room, the normally inactive leaf may be held closed with top and bottom dead bolts and an astragal shall be provided.

History: 1954 ACS 74, p. 23, Eff. May 15, 1973.

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R 29.85 Turnstiles.

Rule 85. (1) A turnstile or a similar device to restrict travel to 1 direction shall not obstruct a required means of egress, except that an approved turnstile not more than 3 feet high, which turns freely in the direction of exit travel, may be used.

(2) A turnstile in, or furnishing access to, a required exit shall provide 22 inches of clear width as the turnstile rotates.

(3) A turnstile shall not be placed in a required exit, or bar the way of access thereto or travel therefrom, unless within 20 feet there is a swinging door or gate opening freely in the direction of exit travel or an open passage serving the same general path of travel as the turnstile.

History: 1954 ACS 74, p. 23, Eff. May 15, 1973.

R 29.87 Inner courts.

Rule 87. An inner court used for pupil activities shall be considered as a classroom and comply with rules relating to exits from classrooms, distance to exits and exit doors. If a court would normally be for more than 100 persons, it shall be classed as a public assembly place and shall have sufficient exits as required by these rules.

History: 1954 ACS 74, p. 24, Eff. May 15, 1973.

R 29.91 Stairway and ramp walls.

Rule 91. The enclosing walls of a floor opening serving a stairway or ramp shall be arranged to provide a continuous path of escape, including landings and protection for persons using the stairway or ramp against fire or smoke therefrom in other parts of the school building. Such walls shall have a 2-hour fire-resistance rating in a new building of 4 stories or more of fire-resistive construction, and 1-hour in any other new building of fire-resistive construction.

History: 1954 ACS 74, p. 24, Eff. May 15, 1973.

R 29.92 Stairway locations.

Rule 92. (1) A required stairway shall be located on outside walls and be continuous to the outside at grade. An exit from a floor above the first shall be by an inside stairway. Two stairways with a common termination point or intermediate landing are considered as a single stairway.

(2) A stairway or exit shall be located so the distance of travel from any room will not be more than that specified in R 29.43(1) and with respect to corridors, passages and rooms there will be no dead ends in which pupils might be trapped. A storage room, general office, toilet room and like facility other than those for pupil use, are exempt from this requirement, allowing a dead end corridor where no regular pupil occupancy on a group basis is provided. A door in such dead end area may not be more than 50 feet from a point in an exit corridor having access to exits in different directions.

History: 1954 ACS 74, p. 24, Eff. May 15, 1973.

R 29.93 Stairway enclosures.

Rule 93. (1) A stairway enclosure serving more than 2 stories shall be equipped with a C labeled or ¾-hour labeled fire door assembly and no other glass shall be permitted.

(2) A required stairway serving a 2-story building shall be enclosed at the lower floor level with noncombustible construction, installed to be smoketight and

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having a ½-hour fire-resistance rating with a C labeled or ¾-hour labeled fire door. One-quarter inch wired glass in steel framing, not more than 1,296 square inches per opening, with no dimension more than 54 inches shall be permitted. If the lower floor is more than 4 feet below grade the stairway shall be enclosed at both levels. Other stairways shall be enclosed in like manner at either the top or lower floor level.

(3) A building having not more than 2 levels, where neither level is a basement and both levels exit at grade and the vertical rise between levels is not more than 4 feet, will be considered as 1-story and enclosures will not be required between levels.

(4) A room door or opening into a stairway other than a corridor access door is prohibited except where a floor is an open area such as a cafeteria floor or tower room as described in R 29.42(4).

(5) A storage space over or under a stairway shall have a 1-hour fire-resistance rating and shall not open into the stairway or exit space.

History: 1954 ACS 74, p. 24, Eff. May 15, 1973.

R 29.94 Stairway dimensions.

Rule 94. (1) A stairway shall not be less than 44 inches wide, clear of obstructions except handrails which shall not project more than 3½ inches on each side. A riser shall not be more than 7½ inches high and a tread shall not be less than 10 inches wide from front to rear, exclusive of nosing or projection. Winders are not permitted. The headroom shall not be less than 6 feet and 8 inches. The height between landings shall not be more than 8 feet. The dimension of a landing in the direction of travel shall not be less than 44 inches. A door opening on a stairway without a landing at least as wide as the door shall not be permitted.

(2) The height of a riser and the width of a tread shall be so proportioned that the sum of 2 risers and a tread, exclusive of its nosing or projection, is not less than 24 or more than 25 inches. The variation in the width of treads or in height of risers shall not be more than $\frac{3}{16}$-inch, except as permitted by R 29.95(8) for monumental stairways.

History: 1954 ACS 74, p. 24, Eff. May 15, 1973.

R 29.95 Stairway construction and capacity.

Rule 95. (1) The number of steps in a stairway shall not be less than 3.

(2) The rated capacity of a stairway shall be 60 persons per 22 inches of width.

(3) A stairway, platform or landing serving as a required means of egress shall be of permanent fixed construction of fire-resistive noncombustible material throughout, except that handrails are exempt from this requirement.

(4) A stairway, platform, landing, balcony, and stair hallway floor shall carry a load of 100 pounds per square foot, or a concentrated load of 300 pounds, so located to produce maximum stress conditions.

(5) Where stairway treads and landings may involve danger of persons slipping, nonslip material shall be provided.

(6) Arrangement of treads known as winders shall not be permitted in a new stairway, except as permitted by subrule (8) for a curved monumental stairway, and for those used as access to a storage mezzanine, for maintenance operations, and to a swimming pool viewing port area which may be used on an individual basis.

(7) A stairway and intermediate landing shall continue with no decrease in width along the direction of exit travel.

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(8) A monumental stairway, either inside or outside, may be accepted as a required exit if all requirements for exit stairways are complied with, including required enclosures and minimum width of treads, except that curved steps may be accepted with a radius of 25 feet or more at the inner edges.

History: 1954 ACS 74, p. 25, Eff. May 15, 1973.

R 29.96 Guards and handrails.

Rule 96. (1) A new stairway, stairway landing, balcony appurtenance and a stairway leading from a mezzanine which forms a part of a path of travel to exits, shall be guarded against falls and shall have handrails on both sides, except that handrails are not required on level landings or balconies.

(2) Guards and handrails shall continue for the full length of each stairway.

(3) Guards and handrails shall minimize the possibility of engaging loose clothing.

History: 1954 ACS 74, p. 25, Eff. May 15, 1973.

R 29.97 Guards.

Rule 97. (1) A guard is not required for inside stairways which reverse direction at intermediate landings, where the horizontal distance between successive flights is not more than 1 foot, except that the top flight shall comply with subrule (3).

(2) A guard shall not be less than 42 inches high. A guard protecting changes in level, 1-story or less, on an interior balcony or mezzanine shall not be less than 36 inches high. The height shall be measured vertically to the top of the guard from a point on the tread 1-inch back from the leading edge or from the floor of a landing or balcony.

(3) A guard shall be constructed so that the area in the plane of the guard from the top of the floor, riser or curb to the minimum required height of the guard shall be subdivided or filled in such a way to protect against falling through the guard in compliance with the national fire protection association pamphlet no. 101, 5-3165.d(1-6), 1970, guard details.

(4) An enclosure wall or guard consisting of masonry railing or other construction shall support loads transmitted by attached handrails or shall resist a horizontal thrust of 50 pounds per lineal foot applied at the top of the guard, whichever condition produces maximum stress. For a wall or guard higher than minimum height, the specified thrust shall be applied 42 inches above the floor or tread.

(5) An intermediate rail, baluster or panel filler shall support a uniform load over the gross area of the guard, including the area of any openings in the guard of which it is a part, of not less than 25 pounds per square foot. Reactions due to this loading need not be added to the loading specified by subrule (4) in designing the main supporting members of guards.

History: 1954 ACS 74, p. 25, Eff. May 15, 1973.

R 29.98 Handrails.

Rule 98. (1) A handrail on a stairway shall not be less than 30 inches nor more than 34 inches above the upper surface of the tread, measured vertically to the top of the rail, from a point on the tread 1-inch back from the leading edge, except that on a stairway for use by small children an additional handrail may be provided lower than the main handrail.

(2) A handrail shall provide a clearance of not less than 1½ inches between the handrail and the wall to which it is fastened. A handrail shall be supported to

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withstand a load of not less than 200 pounds applied at any point downward or horizontally.

(3) A handrail shall permit continuous sliding of a hand on the rail.

(4) A stairway required to be more than 88 inches wide shall have intermediate handrails dividing the stairway into portions not more than 88 inches wide, except that on monumental outside stairs 2 handrails may be permitted.

History: 1954 ACS 74, p. 25, Eff. May 15, 1973.

R 29.101 Ramps.

Rule 101. (1) A ramp may be used as a component in a means of egress if it conforms to the general requirements of R 29.41 to R 29.45 and to the special requirements of this rule, and is used as a ramp or an exit ramp.

(2) A ramp shall not be less than 44 inches wide and shall have a slope not greater than 1 foot in 12 feet, 8⅓%. There shall be no limit to height between floors except as specified by authority of Act No. 1 of the Public Acts of 1966, being §§125.1351 to 125.1356 of the Michigan Compiled Laws. The capacity in persons per unit of exit width shall be 100.

(3) A ramp inside a school building, used as an exit or exit component, shall be protected by separation from other parts of the building. The separating construction shall meet the following requirements and, in addition, shall conform to the applicable portions of R 29.91 to R 29.98 for stairways:

(a) The separation shall have a 1-hour fire-resistance rating in a building of 3 stories or less.

(b) The separation, including supporting structural steel, shall have a 2-hour fire-resistance rating in a building of 4 stories or more, and shall be constructed of noncombustible materials.

(c) An opening in a separation shall be protected by an approved self-closing fire door in compliance with R 29.81(b) and R 29.93(1) and (2), depending on the number of floors served by the ramp.

(4) There shall not be enclosed usable space under a ramp in an exit enclosure nor shall the open space under the ramp be used for any purpose unless the space is separated by construction having a 1-hour fire-resistance rating and does not open in a corridor, ramp or stairway.

(5) A ramp and the platforms and landings connected therewith shall be designed for not less than 100 pounds per square foot live load.

(6) The slope of a ramp shall not vary between landings. Landings shall be level and changes in direction of travel shall be made only at landings.

(7) The construction of an exit ramp of a school building shall conform to the noncombustible fire-resistive construction requirements for the building. The ramp floor and landing shall be solid and without perforations.

(8) A ramp shall have a nonslip surface.

(9) Guards in compliance with R 29.97 for a stairway shall be provided in comparable situations for a ramp.

History: 1954 ACS 74, p. 26, Eff. May 15, 1973.

R 29.103 Vertical openings.

Rule 103. (1) A stairway, elevator shaft, light and ventilation shaft, chute and any other opening between stories shall be enclosed or protected to prevent the spread of fire or smoke, except as an unenclosed opening is specifically permitted by provision for automatic sprinkler protection. See R 29.198(5).

(2) A floor opening, as specified in subrule (1) shall be enclosed by substantial walls having a fire-resistance rating in compliance with R 29.91 and R 29.93.

History: 1954 ACS 74, p. 26, Eff. May 15, 1973.

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R 29.105 Open plan buildings and flexible floor plan arrangements.

Rule 105. (1) An open plan building shall not be more than 30,000 square feet in undivided area.

(2) Travel distance from any point in an open plan building to an exit door directly to the outside, or to a stairway in an unsprinklered building shall not be more than 100 feet in line of travel, and shall not be more than 250 feet in line of travel in a building completely protected by an automatic sprinkler system.

(3) Interior finish in an unsprinklered open plan building shall be class A or class B throughout, except that movable partitions not more than 7 feet high may be class C. In a 1-story building the exposed portions of structural members complying with the requirements for heavy timber construction shall be permitted. This shall not include a construction known as, or similar to, "lamella."

(4) A separated area for more than 20 persons in an open plan section of a building shall have an area open to the balance of the open plan section equivalent to not less than 15% of its perimeter surface unless the area is provided with protected egress in compliance with R 29.45.

(5) An open plan building shall have exits independent from the assembly portion and be separated therefrom by construction for corridor walls in compliance with R 29.61(5). See R 29.51(6) for public assembly place exits.

(6) Where flexible floor plan arrangements which will affect exiting conditions are contemplated by use of movable temporary partitions or furnishings, floor diagrams shall be approved in advance to comply with R 29.25.

(7) Travel distance in a flexible plan building to an exit door directly to the outside or enclosed stairway shall comply with R 29.43.

(8) Interior finish in an unsprinklered flexible plan building shall be class A or B throughout. In a 1-story building the exposed portions of structural members complying with the requirements for heavy timber construction shall be permitted. This shall not include a construction known as, or similar to, "lamella."

History: 1954 ACS 74, p. 26, Eff. May 15, 1973.

R 29.107 Elevators.

Rule 107. (1) An elevator shaft shall be enclosed in compliance with R 29.103.

(2) An elevator shall not constitute a required means of exit.

(3) If an automatic elevator serves a school building of more than 3 stories, or more than 3 stories above grade, 1 or more elevators shall be equipped for fire emergency use by fire fighters as follows:

(a) A key-operated switch with light jewel shall be provided adjacent to the elevator at the street or first floor. The switch shall remove the elevator from normal service and place it on firemen's service.

(b) The key-operated switch, if operated, shall cancel existing car calls, prevent registration of further car calls, prevent the opening of the elevator doors except at the landing at which the switch is located and cause the car to travel to that landing bypassing other landing calls. The light jewel shall be illuminated if the car is returning to the firemen's landing in response to operation of the key-operated switch.

(c) If the car arrives at the firemen's landing, the doors shall open and remain open until closed by inside operation of the elevator.

(d) A key-operated switch shall be provided in the car which can be operated only by the key which operates the firemen's landing switch and which, if operated, permits operation of the elevator only from the car-operating buttons and causes the elevator to bypass landing calls.

History: 1954 ACS 74, p. 27, Eff. May 15, 1973.

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R 29.108 Rubbish chutes, laundry chutes, and incinerator flues.

Rule 108. (1) A rubbish chute, laundry chute and an incinerator flue shall be enclosed and its opening shall comply with R 29.103. The chute or incinerator flue shall not open directly on an exit, or corridor to an exit, but shall be in a separate room or closet separated from the exit or from the corridor by a 1-hour labeled fire door assembly.

(2) A rubbish or laundry chute and an incinerator flue shall be of a standard type properly protected and maintained for fire safety in compliance with the national fire protection association pamphlet no. 82, 1970, "Incinerators, Rubbish Handling."

(3) A chute, other than an incinerator flue, and a drop room, holding room or bin shall be provided with automatic sprinkler protection.

History: 1954 ACS 74, p. 27, Eff. May 15, 1973.

R 29.109 Incinerators and incinerator rooms.

Rule 109. (1) An incinerator shall not be fed from a corridor.

(2) An incinerator, if installed, shall be located in the heating plant room or in a separate room.

(3) If an area of a heating plant room is used for accumulation of material to be incinerated, or otherwise disposed of, the heating plant room shall be protected by automatic sprinklers.

(4) A separate incinerator room shall have no other occupancy and shall be protected by automatic sprinklers.

(5) A separate incinerator room shall comply with the physical requirements for construction, fire protection and location of a heating plant room, except for the prohibition against being under a part of a school building.

(6) A room to be used for accumulation of material to be incinerated, or otherwise disposed of, shall be protected by automatic sprinklers.

History: 1954 ACS 74, p. 27, Eff. May 15, 1973.

R 29.111 Underground areas, windowless areas, and emergency windows.

Rule 111. (1) A part of a school building having the floor level below the level of its exit discharge shall be completely protected by an automatic sprinkler system. Rooms having openable windows are exempt from this requirement. R 29.112(1) does not apply to floor levels below the exit discharge level.

(2) Except in a building completely protected by an automatic sprinkler system, a room or space used for classroom or other educational purposes or for more than 20 students, unless it has a door leading directly to the outside of the building, shall have 1 outside window which can readily be used for emergency rescue or ventilation purposes, and which meets all of the following requirements:

(a) The window is readily openable from the inside without use of tools.

(b) The window provides a clear opening with a dimension of not less than 22 inches and is not less than 5 square feet in area.

(c) The bottom of the window opening is not more than 32 inches above the floor. This may be increased to 44 inches where a fixed counter, unit ventilator, fixed bookcase, or other suitable, substantial, fixed, horizontal surface is located directly beneath the window, is as long as the width of the window and has a depth of not less than 12 inches and a height of not more than 36 inches above the floor.

(d) Storm windows, screens or burglar guards, when used, are provided with quick opening devices so that they may be readily opened from the inside for

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emergency egress and are arranged so that if opened they will not drop to the ground.

(e) An emergency window is identified by a durable, permanently legible sign, securely fastened at a conspicuous location and having letters not less than ¾-inch high with ⅛-inch strokes.

(f) Opening hardware is simple and uncomplicated, operable by a single motion lever or a reasonably sized knob, and does not project into the required clear emergency opening if the window is in an open position.

(g) In a building not more than 1 story above grade, a room with an emergency window that opens on an inner court may be considered as having a window satisfactory for emergency rescue and ventilation purposes if the courtyard has a dimension of not less than 45 feet with doors hung to swing in the direction of egress, and has 2 widely separated means of egress, 1 of which leads directly into an approved egress corridor.

(3) A windowless building shall be provided with outside access panels on each floor level for fire department access from ladders for purposes of ventilation and rescue of trapped occupants.

History: 1954 ACS 74, p. 28, Eff. May 15, 1973.

R 29.112 Waiver of windowless area sprinkler requirements.

Rule 112. (1) The requirements of R 29.111 for complete sprinkler protection, except R 29.111(1), shall be waived if:

(a) The windowless section of the story is not more than 25% of the total area of the story excluding corridors.

(b) Egress from the occupied spaces does not require travel past an area of hazardous occupancy.

(c) Reasonable judgment in not requiring sprinklers is used to uphold the life safety purposes of these rules.

(2) Considered separately from subrule (1), the requirements of R 29.111 for sprinklers shall be waived when any of the following conditions exist:

(a) All windowless rooms and spaces have a secondary corridor completely separated from the primary means of egress by construction having a ¾-hour fire-resistance rating, including any doors, frames, side lights, borrowed lights, walls and ceilings.

(b) All windowless rooms, spaces and public assembly places have 50% of their required exits visible directly to the exterior of the building and within 20 feet from the door of the occupied room and this egress does not pass an area of hazardous occupancy.

History: 1954 ACS 74, p. 28, Eff. May 15, 1973.

R 29.115 Exit lighting for underground areas and windowless buildings.

Rule 115. An underground area or windowless building, for which no natural lighting is provided and which is for more than 100 persons in any room or separated area, shall be provided with emergency exit lighting and corridor lighting, to a value of 1-foot candle measured at the floor. The lighting shall have a primary supply of electricity by the normal circuits in the building as supplied by a public utility service, and a secondary supply consisting of underwriters' laboratories, inc., approved unit devices having individual batteries supplying electricity, which may be at a voltage different from that of the primary lighting, or an emergency generator with automatic changeover features either of which will supply emergency lighting for ½ hour. The units shall have suitable equipment to keep them automatically charged. The units shall be provided with automatic

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controls so that after the batteries operate due to a failure or turning off of the primary supply, they will shut off after their specified period of operation and will be automatically recharged and ready for further service when the primary supply is again turned on.

History: 1954 ACS 74, p. 29, Eff. May 15, 1973.

R 29.121 Interior finish of buildings.

Rule 121. (1) The interior finish of a school building includes the material of its walls, fixed or movable partitions, ceilings, and other exposed interior surfaces, comprising both the plaster, wood or other interior finish materials. Doors, trim, backing of shelving, cabinets, and wardrobes shall be included in the 10% of class C finish permitted in R 29.124(3).

(2) A floor finish or floor covering shall be exempt from interior finish requirements except that a floor surface having an unusual hazard is considered a part of interior finish.

History: 1954 ACS 74, p. 29, Eff. May 15, 1973.

R 29.122 Interior finish classifications.

Rule 122. (1) The alphabetical classification of finish materials is for flame spread, fuel contribution, and smoke development as determined by a tunnel test in compliance with the national fire protection association pamphlet no. 255, 1969, method of test of surface burning characteristics of building materials; the American society for testing and materials standard no. E-84, 1968, test for surface burning characteristics of building materials, or underwriters' laboratories, inc., standard no. 723, 1960, test method for fire hazard classification of building materials, and grouped as follows:

Class	Flame Spread	Fuel Contributed	Smoke Developed
A	0 - 25	0 - 35	0 - 50
B	26 - 75	36 - 75	51 - 125
C	76 - 200	76 - 200	126 - 200

(2) The same alphabetical classification is used for combustibility of prefabricated acoustical tile units only, under federal specifications' test no. SS-S-118a.

(3) A finish material more hazardous than class C shall not be used in a school building, except as prescribed in R 29.128 to R 29.136 for formed plastic material.

(4) The classification of interior finish materials as to their flame spread and smoke development shall be that of the basic material used, without regard to subsequently applied paint or other covering which is of such character or thickness or so applied to not affect materially the flame spread and smoke characteristics. Highly combustible material applications, such as lacquer or pyroxylin base materials or unapproved wall coverings, shall not be used.

History: 1954 ACS 74, p. 29, Eff. May 15, 1973.

R 29.123 Unclassified coatings and acoustical tile.

Rule 123. (1) Paints or coatings containing plastics, polyesters, or epoxies may be used on noncombustible surfaces without proof of classification if not applied in excess of 8 mils total thickness.

(2) Prefabricated acoustical tile units shall be attached with staples or other acceptable metal clips, except class A acoustical tile which is attached to a noncombustible backing or is used in an approved assembly without backing.

History: 1954 ACS 74, p. 29, Eff. May 15, 1973.

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R 29.124 Wall and ceiling finishes.

Rule 124. (1) Wall and ceiling finish materials for a public assembly place for 200 or more persons shall be no more hazardous than class B.

(2) Wall and ceiling finish materials for a room for less than 200 persons shall be no more hazardous than class C.

(3) Wall and ceiling finish materials for an exit corridor or a lobby shall be no more hazardous than class A, except that a surface of area equal to 10% of the aggregate ceiling and wall area, no more hazardous than class C is permitted. Transom panels and door side panels are considered as part of the partition for interior finish purposes.

History: 1954 ACS 74, p. 29, Eff. May 15, 1973.

R 29.125 Structural member finishes.

Rule 125. In 1-story construction, exposed laminated wood beams and heavy timber structural members in compliance with the national fire protection association pamphlet no. 220, 1961, standard types of building construction, will be accepted without treatment. However, "lamella" construction shall not be used in an area requiring a class B finish unless the material is underwriters' laboratories, inc., labeled pressure impregnated to comply with class B.

History: 1954 ACS 74, p. 30, Eff. May 15, 1973.

R 29.126 Exceptions to finish requirements.

Rule 126. (1) R 29.124(3) does not apply to a 1-story building having approved exterior exits from each occupied area where finishes may not be more hazardous than class C. Approved exits in these instances means standard swing doors installed conventionally. Each such occupied area includes all locations within the building and not just the classrooms. The only exception made will be for a room or space for not more than 20 persons where the door of the room is not more than 50 feet from an outside exit, and interior finish in the building is not more hazardous than class B.

(2) Where an automatic sprinkler system is installed, see R 29.198(4).

(3) For open plan buildings, see R 29.105(3).

History: 1954 ACS 74, p. 30, Eff. May 15, 1973.

R 29.127 Tack boards or bulletin boards as interior finish.

Rule 127. (1) A tack board or bulletin board is considered an interior finish material and is permitted as follows:

(a) A tested assembly that will yield the required surface burning characteristics for the specific occupancy in compliance with R 29.122(1).

(b) A vinyl which has been tested on a noncombustible backing and proved to be class A in compliance with R 29.122(1) and applied to a backing which itself has proved to be class A in compliance with R 29.122(1).

(2) A classroom tack board may be installed in any horizontal width if its vertical height is not more than 6 feet and it complies with subrule (1)(b).

(3) A corridor tack board may be installed if its vertical height is not more than 6 feet and its total area is not more than 72 square feet per panel per 150 linear feet of corridor and it complies with subrule (1)(b).

History: 1954 ACS 74, p. 30, Eff. May 15, 1973.

R 29.128 Plastic materials as interior finishes.

Rule 128. A plastic material affixed to the surface of a wall or ceiling such as a plastic panel, paint, wall covering, laminate or a similar item, and glazing is

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deemed to be an interior finish material, shall comply with R 29.122. A formed plastic material used for transmission or diffusion of light is exempt from the requirements of R 29.122 if it is of an approved plastic material complying with R 29.129 and the limitations and requirements comply with R 29.121, R 29.132, R 29.134, or R 29.136.

History: 1954 ACS 74, p. 30, Eff. May 15, 1973.

R 29.129 Plastic material burning and smoke development rates.

Rule 129. (1) A plastic material shall burn no faster than 2½ inches per minute in sheets 60/1000-inch thick when tested in compliance with the American society for testing and materials standard no. D-635, 1968, test for flammability of self-supporting plastics. Thickness shall be determined in compliance with the methods of the American society for testing and materials standard no. D-374, 1968, tests for thickness of solid electrical insulation.

(2) A plastic material shall have a smoke development rating not more than 450 when tested in compliance with the American society for testing and materials standard no. E-84, 1968, tests for surface burning characteristics of building materials; underwriters' laboratories, inc., standard no. 723, 1960, test method for fire hazard classification of building materials; or the national fire protection association pamphlet no. 255, 1969, method of test of surface burning characteristics of building materials, when supported in the manner intended for use, or a smoke density rating not more than 75 when tested in the thickness intended for use in compliance with the national fire protection association quarterly no. 57-9, January, 1964, a method of measuring smoke density; or the American society for testing and materials, standard no. D-2843, 1970, method of test for measuring the density of smoke from the burning or decomposition of plastics.

(3) The manufacturer shall provide notarized certification stating that the material used in the products furnished complies with this rule. The certification shall be accompanied by a test report from an approved independent testing laboratory or reference to the underwriters' laboratories, inc., listing and each sheet, panel, grid, or unit shall be labeled for the purpose of identification.

History: 1954 ACS 74, p. 30, Eff. May 15, 1973.

R 29.131 Light fixture diffusers.

Rule 131. (1) "Diffuser" means a lens or face enclosure of a light fixture which may be suspended from, or surface-mounted on, a ceiling or roof, or recessed in a ceiling. A plastic diffuser shall comply with R 29.129.

(2) The surface area of a diffuser shall not comprise more than 30% of the ceiling area of the room or space. The area of a single piece of a diffuser shall not be more than 30 square feet with a dimension of not more than 8 feet. The surface area is not limited in a building protected by an automatic sprinkler system. In rated assemblies the area shall not be more than the size tested.

(3) A diffuser shall remain in place for not less than 15 minutes at a temperature of 175 degrees Fahrenheit when tested in compliance with the American society for testing and materials standard no. D-648, 1956, test for deflection temperature of plastics under load, but shall fall from its mountings at 200 degrees Fahrenheit below its ignition temperature when tested in compliance with the American society for testing and materials standard no. D-1929, 1968, test for ignition properties of plastics.

History: 1954 ACS 74, p. 31, Eff. May 15, 1973.

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R 29.132 Light diffusing systems.

Rule 132. (1) A light diffusing system consists in whole or in part of lenses, panels, grids, grilles, or baffles suspended below lighting fixtures. Formed plastics shall comply with R 29.129 and R 29.131(3), and not comprise more than 30% of the ceiling area of the room or space.

(2) If the school building is protected by an automatic sprinkler system, diffusing systems shall comply with the requirements of R 29.131, except that the area allowed is not limited. Sprinklers used with a diffusing system shall be installed both above and below the system, except if it has been tested and approved for use above the system only.

History: 1954 ACS 74, p. 31, Eff. May 15, 1973.

R 29.134 Domelights and skylights.

Rule 134. (1) A roof dome of plastic materials shall comply with R 29.129 and shall be mounted on a curb extending not less than 4 inches above the roof surface. The curb shall be constructed of noncombustible materials or of wood protected by a membrane having a 1-hour fire-resistance rating.

(2) The area of an individual plastic unit shall not be more than 100 square feet within the curb and with no side dimension more than 10 feet. The interior exposed area of a roof or ceiling dome shall not be more than 20% of the floor area of the room or space. This area shall be included as a part of the 30% allowed for plastic light diffusers in compliance with R 29.131(2).

(3) Units shall be separated by not less than 4 feet of noncombustible surface measured along their horizontal projection and shall not be closer than 6 feet to a roof edge. A ceiling dome shall comply with R 29.131(3). If the building is protected with an automatic sprinkler system, the allowable area is doubled.

History: 1954 ACS 74, p. 31, Eff. May 15, 1973.

R 29.136 Glazing.

Rule 136. (1) Approved plastic material complying with R 29.129 may be used for glazing if set in a frame or sash and not held by mechanical fasteners which penetrate the glazing material. Plastic glazing shall not be permitted in an opening higher than 4 stories or 50 feet above grade.

(2) Total plastic glazing shall not be more than 30% of the outside walls of the room or space, shall not be more than 100 square feet per window opening with no edge dimension more than 10 feet, and shall be separated from each other by 2 feet horizontally and 4 feet vertically of noncombustible material.

(3) Approved plastic material complying with R 29.129 is permitted for use as greenhouse glazing without complying with subrule (2) as to the 30% separation limitations if the greenhouse is separated from the remainder of the building by 1-hour fire-resistive construction.

History: 1954 ACS 74, p. 31, Eff. May 15, 1973.

R 29.141 Fire alarm systems.

Rule 141. (1) In a school building of more than 1 classroom a fire alarm system shall be provided to warn occupants of the existence of fire so that they may escape or to facilitate the orderly conduct of fire exit drills.

(2) A new school building and an addition to a building shall be equipped with an approved electrical, closed circuit, supervised fire alarm system with the supply fused ahead of the main switch or disconnect through the emergency panel, except that this does not apply to a 1-room school.

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(3) Fire alarm equipment shall be listed for its intended use in the underwriters' laboratories, inc., fire protection equipment list, 1971. The installation shall be in compliance with the national fire protection association pamphlet no. 72A, 1967, local protective signaling systems; pamphlet no. 72B, 1967, auxiliary protective signaling system; and pamphlet no. 72D, 1967, proprietary protective signaling systems. A control panel shall bear the underwriters' laboratories, inc., or factory mutual label.

(4) A fire alarm control panel shall be located in a room accessible to the school administrators. The trouble bell or signal device shall be installed at a location where personnel are on duty while the building is occupied.

(5) A new fire alarm system in an addition shall be connected to the system in the existing building so that all stations throughout the entire building will actuate all alarms.

(6) In a building provided with an automatic sprinkler system or an automatic smoke detection system, operation of either system shall automatically actuate the school fire alarm system.

History: 1954 ACS 74, p. 32, Eff. May 15, 1973.

R 29.142 Fire alarm stations.

Rule 142. (1) A fire alarm station shall be painted red and be clearly marked "Fire Alarm."

(2) Fire alarm stations shall be located in the furnace or boiler room, kitchen area, public assembly places, auditorium stages, main office and corridors near exits so that it will not be necessary to travel more than 100 feet from the door of any room to reach a station on the same floor.

(3) A fire alarm pull box station shall be located in the main office of a school building or elsewhere as directed by the local fire authorities and connected directly to the local fire department in a locality which is equipped with a pull box system. This pull box station may be independent of the fire alarm system in the building.

History: 1954 ACS 74, p. 32, Eff. May 15, 1973.

R 29.143 Fire alarm signals.

Rule 143. Fire alarm signals shall be located throughout a school building so that persons in all areas of the building, including high noise areas, will be able to hear the signal. The signals shall have an auditory sound distinct from other signals in use in the building for other purposes.

History: 1954 ACS 74, p. 32, Eff. May 15, 1973.

R 29.151 Heating plant room location, construction, and use.

Rule 151. (1) A heating plant room, including a fuel-fired plant for heating swimming pool water, shall not be located beneath any part of a school building.

(2) An existing heating plant located beneath part of a building shall not be expanded in area or British thermal unit capacity.

(3) A heating plant roof shall be of as light, noncombustible construction as practicable.

(4) A heating plant room walls shall be of fire-resistive construction extending to the roof and have a 1-hour fire-resistance rating, except where the heating plant room is not connected to the building and is so located as to provide a horizontal separation from the building in compliance with the national fire protection association pamphlet no. 80A, 1970, protection from exposure fires.

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(5) A roof-mounted heating unit having a combustion chamber shall be separated from the roof by construction having a 1-hour fire-resistance rating with duct openings protected by fire dampers. A unit mounted on noncombustible supports with 12 inches of clear openings above a noncombustible roof shall be considered to meet the 1-hour fire-resistance rating and fire dampers for ducts shall be provided at the noncombustible roof line.

(6) No part of a heating plant room shall be used for combustible storage or another unrelated occupancy except that an incinerator may be installed in such a room if the room is protected by an automatic sprinkler system.

History: 1954 ACS 74, p. 32, Eff. May 15, 1973.

R 29.152 Heating plant room openings and vents.

Rule 152. (1) A heating plant room shall have at least 1 outside wall containing a window or door opening directly to the outside. This wall shall be not less than 50% of the longest dimension of the room. The wall shall not be on an inner court. See R 29.111(2) for window size.

(2) At an opening between a heating plant room and the remainder of the building, including a tunnel opening, a labeled fire door assembly shall be installed having a 1-hour fire-resistance rating and equipped with an automatic closer. Such door opening into a corridor shall be hung to swing into the heating plant room.

History: 1954 ACS 74, p. 33, Eff. May 15, 1973.

R 29.153 Storage and special purpose rooms.

Rule 153. (1) A room for storage of combustible materials shall have walls and ceilings of noncombustible materials, and if having a floor area of more than 100 square feet or an opening exposing a corridor, shall be separated from the remainder of the building by construction having a 1-hour fire-resistance rating. This rating shall apply to a combustible roof deck constituting a ceiling of the room.

(2) The requirements of subrule (1) also apply to a room housing commercial type laundry equipment or a kitchen in either case exposing required exit corridors. Where a kitchen is separated from exit corridors by a common wall having a 1-hour fire-resistance rating with a labeled fire door assembly in any opening, the other enclosure walls of the kitchen need not have such fire-resistance rating if the exposure involved is to a room or space separated from any exit corridor by wall and door construction complying with R 29.61(5).

(3) A room for storage of combustible materials and a room housing commercial type laundry equipment, either of which is more than 500 square feet in area, shall be protected by an automatic sprinkler system.

(4) This rule does not apply to a work room serving an instructional unit that is not used for storage, if the openings from such work room do not expose a corridor and if the instructional unit is separated from exit corridors and other occupancies by wall and door construction in compliance with R 29.61(5).

(5) A room for music, instrument and robe storage, and an athletic equipment drying room shall comply with subrules (1) and (3) if any opening exposes a corridor or other area not its own instructional unit. The room need not have a qualified separation from its own instructional unit if the instructional unit has a separation having a ¾-hour fire-resistance rating from other occupancies and corridors.

History: 1954 ACS 74, p. 33, Eff. May 15, 1973.

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R 29.154 Storage rooms and storage of hazardous substances.

Rule 154. (1) An approved 1-hour fire-resistance rated storage room shall be provided for hazardous chemicals, liquids, and gases for laboratories. The walls and ceilings shall be constructed of noncombustible material and any opening protected with a B labeled fire door assembly, except that where amounts of such chemicals, liquids, and gases are so minor as to make construction of such a room impractical, closed cabinets of noncombustible construction shall be provided and located in the laboratories where used, not obstructing any means of egress from the room.

(2) A storage room for major bulk storage of hazardous chemicals, liquids, and gases in amounts of more than 1-gallon individual capacity containers shall be separated from the remainder of the school building by construction having a 1-hour fire-resistance rating. At least 1 wall of this room shall be an outside wall of the building and the room shall be ventilated to the outside. Electrical switches, outlets, wiring, and fixtures shall comply with the state electrical law and rules for such location. A doorway exposed to the interior of the building shall be ramped or curbed to a height of 6 inches to contain any flammable liquid spilled in the room.

(3) Oxygen, combustible gases, and flammable liquids shall not be stored with each other or with combustible material, except that small amounts of flammable liquids for everyday use in shops and offices may be stored within those areas of use in original shipping containers or approved safety containers of not more than 1-gallon individual capacity.

History: 1954 ACS 74, p. 33, Eff. May 15, 1973.

R 29.155 Hazardous equipment.

Rule 155. (1) Flammable liquid dispensing equipment for fueling of vehicles shall be located in relation to a school building containing a classroom so that no portion of a vehicle being served or the dispensing equipment, fill pipe, or vent is less than 40 feet to the building.

(2) Powered grounds equipment shall be stored in a structure of noncombustible construction separate from a school building or in a separate room meeting the construction and protection requirements for automotive and farm mechanics shops.

History: 1954 ACS 74, p. 34, Eff. May 15, 1973.

R 29.157 Shop and industrial arts area location and construction.

Rule 157. (1) An automotive shop or farm mechanics shop or other room housing internal combustion equipment using fuel with a flash point of 100 degrees Fahrenheit or less shall not be located beneath any other part of a school building unless it is protected with an automatic sprinkler system and separated both horizontally and vertically from the remainder of the building by an assembly having a 2-hour fire-resistance rating, except doors shall be B labeled fire door assemblies.

(2) A shop or industrial arts area not covered by subrule (1) shall be separated from the remainder of the building by construction having a 1-hour fire-resistance rating.

(3) A shop shall be adequately ventilated in compliance with standards of the Michigan department of public health. Where dust from equipment constitutes a potential fire hazard, a separate exhaust system shall be provided to discharge it either to the outside atmosphere or to a specially designed dust collector. A gasoline engine test stand shall be discharged to the outside atmosphere.

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(4) In a 1-story shop and industrial arts area structure more than 1,000 square feet in area, having a combustible roof deck, and connected to a multistory school building, an exposed window above the 1-story roof deck shall have a fixed steel frame glazed with ¼-inch wired glass.

(5) If a spray coating or dipping operation is planned, an approved booth or a separate room shall be provided, either of which shall be properly sprinklered and ventilated in compliance with national fire protection association pamphlet no. 33, 1969, spray finishing using flammable and combustible materials, and electrical fixtures, wiring and outlets shall be in compliance with the national electrical code, national fire protection association pamphlet no. 70, 1968, finishing processes, applicable to such locations.

History: 1954 ACS 74, p. 34, Eff. May 15, 1973.

R 29.158 Enclosed instructional areas within industrial arts areas.

Rule 158. (1) An enclosed instructional area for more than 20 persons within an industrial arts area shall have a corridor exit or independent exterior exit.

(2) An enclosed instructional area for not more than 20 persons within an industrial arts area does not require a rated separation if it has exits into a separated industrial arts area, or the distance of travel from the most remote part of the enclosed area to reach a corridor or an exterior exit is not more than 50 feet.

History: 1954 ACS 74, p. 34, Eff. May 15, 1973.

R 29.161 Auditorium stage area protection.

Rule 161. (1) A stage with a drop loft, fly gallery or other means at any level for storage and movement of scenery of like amounts shall have:

(a) One-hour fire-resistive proscenium wall.

(b) The proscenium opening protected by a fire curtain.

(c) Other proscenium wall openings protected by B-labeled or 1-hour labeled fire door assemblies.

(d) The stage side of the proscenium, including dressing rooms, prop rooms, stage craft rooms and the understage areas, other than those used for noncombustible storage or not used for any purpose, shall be protected with an automatic sprinkler system.

(e) The areas described in subdivision (d) shall be separated from the remainder of the school building by construction having a 1-hour fire-resistance rating.

(2) A permanent stage or platform which does not have means for the open storage and moving of scenery but which has more than 500 square feet of area behind the proscenium wall and opening shall comply with the requirements in subdivisions (a), (d), and (e) of subrule (1). If scenery or properties at any time are used or stored on that part of the stage in front of the proscenium wall and the proscenium wall opening, that part of the stage shall be included in measuring the 500 feet.

(3) Curtains, backdrops, settings, draperies, and decorative materials for a stage shall be of flameproof material or be treated with an approved flameproofing material.

History: 1954 ACS 74, p. 34, Eff. May 15, 1973.

R 29.162 Auditorium fire curtain construction.

Rule 162. (1) An auditorium fire curtain shall be of asbestos cloth weighing not less than 3 pounds per square yard and having not less than 180 pounds strength per inch width of warp and 85 pounds strength per inch width of filling. Cotton or other combustible fiber in the cloth shall not be more than 5% of the weight of the

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asbestos. The cloth shall be filled with a mineral paint composed of 4 parts casein to 10 parts of water glass with water added in suitable proportions. Other paints which will completely fill the pores of the cloth and which are capable of withstanding fire without giving out more smoke than such mineral paint will be permitted.

(2) The weight of the curtain shall be sufficiently in excess of the counterweights to overcome all friction, so that the curtain will drop freely by gravity. The speed shall be regulated so that closure of the opening shall be effected within 30 seconds, and the last 5 feet of travel shall require not less than 5 seconds and the curtain shall settle on the stage floor without shock. Its operation shall be controlled by not less than 3 heat-actuated releasing devices, 1 of which shall be at each side of the proscenium opening near the stage floor, and any 1 of which shall release the curtain in case of fire. An emergency device shall be provided and so arranged that the curtain can be released for closing by hand from either side of the stage.

(3) The hoisting apparatus for the curtain shall be designed with a safety factor of 8. No part of the curtain shall be supported or fastened to combustible material.

(4) The bottom of the curtain shall be weighted with pipe battens or other weights held in pockets sewed in the curtain and shall have a yielding pad of noncombustible material not less than 3 inches thick to form a seal against the stage floor.

History: 1954 ACS 74, p. 35, Eff. May 15, 1973.

R 29.163 Auditorium fire curtain size and grooves.

Rule 163. An auditorium fire curtain shall be of sufficient width and height to overlap the proscenium opening 2 feet at the top and 18 inches at each side. It shall slide at each side in a rigid steel groove which shall have a depth of not less than 12 inches. The grooves shall be structural steel shapes and with the curtain shall form a continuous smoke seal from top to bottom, with a clearance of not more than ⅛ inch. The grooves shall be installed in such manner that in case of fire on the stage the pressure of heated gases against the curtain will act to close the curtain tightly in the grooves. The grooves shall be securely fastened to the proscenium wall and the curtain shall be retained in the grooves at all times.

History: 1954 ACS 74, p. 35, Eff. May 15, 1973.

R 29.165 Stage lofts.

Rule 165. The top of a unit loft stage shall not have less than 1 ventilator which shall be opened manually from the stage floor and automatically by a heat-actuating device. A ventilator shall be of noncombustible construction and have an aggregate clear area of opening not less than ⅛ the area of the stage.

History: 1954 ACS 74, p. 35, Eff. May 15, 1973.

R 29.167 Projection booths.

Rule 167. Where a 35 millimeter motion picture projector is used, the booth construction shall comply with section 2 of Act No. 257 of the Public Acts of 1913, as amended, being §29.82 of the Michigan Compiled Laws.

History: 1954 ACS 74, p. 35, Eff. May 15, 1973.

R 29.171 Ventilation.

Rule 171. (1) Where power exhaust ventilation is to be used for an area housing combustion equipment, an air supply shall be provided equal to the amount exhausted, so that negative pressures will not develop resulting in reversal of drafts in chimney flues.

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(2) A plenum above a corridor shall be of noncombustible construction except that parts of the building structure may be used as walls or parts of the plenum if the construction meets ¼-hour rated fire-resistive underwriters' laboratories, inc., listed assembly. A lay-in or splined acoustical unit does not meet this requirement except as permitted in R 29.174 or R 29.175(2).

History: 1954 ACS 74, p. 35, Eff. May 15, 1973.

R 29.172 Fan and air-handling equipment rooms.

Rule 172. (1) A fan or air-handling equipment serving more than 1 classroom or single instructional area does not constitute a hazardous occupancy. The requirements for separation shall be the same as for a classroom. Fire dampers shall be provided and shall comply with R 29.173(2). An automatic smoke detection system shall be located downstream of the air filter, actuation of which shall open the electrical circuit supplying the fan motor and relay signal to and actuate the building's fire alarm system. A fan room shall not be used for any other purpose except housing other nonhazardous mechanical equipment.

(2) A fan or air-handling equipment located in and serving 1 classroom or single instructional area does not constitute a hazardous occupancy. If located in a hazardous room within its area the room will require 1-hour fire-resistive construction regardless of size. See R 29.153.

(3) A fan or air-handling equipment located outside the room or area shall comply with subrule (1).

History: 1954 ACS 74, p. 36, Eff. May 15, 1973.

R 29.173 Fire dampers in ducts.

Rule 173. (1) Where a duct system serves 2 or more floors, fire dampers shall be installed at each direct outlet or inlet and in each branch duct at its junction with the main vertical duct, or at each point where a floor is pierced. For details see sheet metal and air conditioning national association, inc., 1972, state of Michigan fire damper clarification.

(2) An opening in a wall required to have a 1-hour fire-resistance rating due to hazardous occupancy shall be provided with a fire damper regardless of size of the opening. In a wall with less than 1-hour fire-resistance rating a fire damper is not required if the wall opening is 324 square inches or less and if the duct work is a complete substantial separation system of metal or equivalent having tight seams and joints.

(3) Where a duct pierces a wall or enclosure required to have a 2-hour fire-resistance rating a fire damper shall be installed on each side of the wall opening through which the duct passes.

History: 1954 ACS 74, p. 36, Eff. May 15, 1973.

R 29.174 Exit corridors used as plenums.

Rule 174. A required exit corridor shall neither be used as an exhaust plenum nor as a return plenum chamber in a heating and ventilating system. No openings shall be provided in a separation wall between rooms and corridors to provide exhaust air into the corridor. However, in a 1-story school building where a unit ventilator type system is used, a corridor may be used as an exhaust plenum for serving classrooms only, other than shops and industrial arts areas, and a completely sprinklered building. An opening from a classroom into a corridor shall not be more than 144 square inches of free area and be located so that the top of the opening is not more than 18 inches above the floor.

History: 1954 ACS 74, p. 36, Eff. May 15, 1973.

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R 29.175 Duct and plenum construction and insulation; piping insulation.

Rule 175. (1) A duct and plenum space whether for supply, return or exhaust shall be constructed of noncombustible materials. In a multistory school building space between a drop ceiling and the floor or roof above, where the drop ceiling is protection to structural steel members, shall not be used as a plenum unless the designed assembly has been specifically tested for this purpose and contains smoke detectors within the plenum space of a floor-ceiling or roof-ceiling assembly which will shut down the fan. A noncombustible plenum chamber above perforated ceiling used for distributing or exhausting air is subject to special approval by the state fire marshal.

(2) Except in an open plan building, if a perforated ceiling is used in a corridor, air handling in the area above such ceiling shall be in a separate closed duct.

(3) Insulation material, where used for a lining or covering for a duct, plenum or fan unit, or for mechanical piping, shall be class A in compliance with R 29.122(1).

History: 1954 ACS 74, p. 36, Eff. May 15, 1973.

R 29.181 Electrical wiring and equipment.

Rule 181. (1) Electrical wiring and equipment shall be installed in compliance with the state electrical law.

(2) Electrical plans and specifications shall be approved by the local electrical inspection authority where available or by the inspection services of the state electrical administrative board. Complete inspection service with final certification of compliance covering the installation shall be made by the same agency.

(3) An electrical outlet or circuit provided for an electrically heated appliance which comes in contact with combustible material shall be wired to indicate by means of a visual pilot light when the appliance is energized.

(4) For exits, see R 29.46.

History: 1954 ACS 74, p. 37, Eff. May 15, 1973.

R 29.183 Hot water heaters and tanks.

Rule 183. (1) A hot water heater, other than 1 electrically heated or a booster heater for a dishwasher, shall be installed in the heating plant room or a separate room and shall comply with the physical requirements for construction, fire protection, and location of a heating plant room except for the prohibition against being under a part of a school building.

(2) A hot water storage tank shall be equipped with 1 of the following safety devices which shall prevent temperatures of more than 210 degrees Fahrenheit and pressures of more than the working pressure for which the tank is designed:

(a) An acceptable pressure relief valve, combined with an energy cutoff approved by underwriters' laboratories, inc., or the American gas association.

(b) An acceptable pressure relief valve and an acceptable temperature relief valve of the spillage type.

(c) An acceptable combined temperature-pressure relief valve of the spillage type.

History: 1954 ACS 74, p. 37, Eff. May 15, 1973.

R 29.184 Gas.

Rule 184. (1) A master gas valve shall be provided in a room having 3 or more gas outlets. The valve shall be conveniently located and easily distinguishable so that it may be closed readily when the room is not in use.

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(2) A shutoff valve shall be provided outside the school building.

(3) A gas heater shall be properly vented.

(4) The installation, use, and maintenance of gas appliances and gas piping shall be in compliance with the national fire protection association pamphlet no. 54, 1969, installation of gas appliances and gas piping.

(5) A liquefied petroleum gas or bottled gas installation shall comply with the state police rules of the Michigan Administrative Code, being R 28.751 to R 28.897, entitled "Liquefied Petroleum Gases." A line supplying such gas, when placed in a tunnel, attic, vertical shaft, or other blind space, shall be without joints and the space shall have forced ventilation.

History: 1954 ACS 74, p. 37, Eff. May 15, 1973.

R 29.187 Cooking appliances.

Rule 187. (1) A cooking appliance shall be installed in compliance with approved safety practices.

(2) A metal hood shall be provided over each main cooking appliance, or over appliances which are located together, in a kitchen and shall be equipped and designed in compliance with the national fire protection association pamphlet no. 96, 1970, ventilation of cooking equipment, except as provided in subrule (5).

(3) A filter shall be maintained in an efficient condition and kept clean at all times.

(4) Only vaporproof-type electrical wiring and equipment shall be permitted in a hood.

(5) Fire extinguishing equipment for a hood and exhaust duct for a main cooking appliance in a kitchen shall be fixed pipe inert gas, dry chemical, fine water spray or steam system provided with combined manual and automatic controls. A gas-fired appliance shall be equipped to automatically shut off gas supply upon activation of the extinguishing system.

(6) A filter, and extinguishing equipment specified in subrule (5), may be omitted if an approved listed grease extractor system is installed and maintained in the hood and duct system.

(7) An exhaust duct from a hood serving a main cooking appliance in a kitchen shall be equipped and designed in compliance with the national fire protection association pamphlet no. 96, 1970, ventilation of cooking equipment, shall run to the outside by the shortest possible route, and when run through a concealed space between a ceiling and a floor, or roof, or through any floor above, shall be enclosed in a horizontal or vertical shaft separated from the remainder of the building by construction having a 2-hour fire-resistance rating from the interior of the shaft. A recessed hood shall also be separated by construction having a 2-hour fire-resistance rating.

History: 1954 ACS 74, p. 37, Eff. May 15, 1973.

R 29.191 Fire extinguisher locations.

Rule 191. (1) A fire extinguisher shall be housed in a special cabinet or wall rack readily accessible at all times, located so that the top of the extinguisher is not more than 5 feet above the floor. The cabinet or the wall in the area of the wall rack shall be painted a distinguishing color, or the front of the cabinet shall be identified with the words, "Fire Extinguisher," in contrast to the background.

(2) An extinguisher shall be of such size and located in compliance with the national fire protection association pamphlet no. 10, 1970, installation of portable fire extinguishers.

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(3) Extinguishers of class A type shall be located in corridors, storage areas of combustible materials and wood shops and on auditorium stages.

(4) Extinguishers of classes B and C type shall be located in heating plant rooms, shops, homemaking rooms, chemistry and physics laboratories, kitchens and garages.

History: 1954 ACS 74, p. 38, Eff. May 15, 1973.

R 29.192 Fire extinguisher types.

Rule 192. (1) A fire extinguisher shall be of a type approved by underwriters' laboratories, inc.

(2) The right type of fire extinguisher shall be readily available for the kind of fire likely to occur in the particular location. The following requirements apply for selecting and locating fire extinguishers:

(a) Standpipes and hose racks General use throughout school buildings—class A	Do not use for electrical and flammable liquid fires.
(b) Soda acid General use throughout school buildings—class A	Do not use for electrical and flammable liquid fires.
(c) Water General use throughout school buildings—class A	Do not use for electrical and flammable liquid fires.
(d) Carbon dioxide Near flammable liquid storage, electrical equipment panels and science laboratory equipment—classes B and C	Good for use on flammable liquid or electrical fires. Not good for deep seated or smoldering fires.
(e) Foam Near flammable liquid storage, garages, auto mechanic shops—classes A and B	Good for use on flammable liquid fire and general use. Do not use on electrical fires.
(f) Dry chemical Near flammable liquid storage, garages, auto mechanics shops—classes B and C.	Good for use on flammable liquid and electrical fires.

(3) A vaporizing liquid-type fire extinguisher shall not be installed and any existing extinguisher of this type shall be removed.

History: 1954 ACS 74, p. 38, Eff. May 15, 1973.

R 29.194 Standpipes.

Rule 194. A standpipe system for fire department use, or a standpipe system for use by a fire department and persons trained in handling a heavy hose stream, shall be installed in a school building more than 2 stories above the highest grade in compliance with the national fire protection association pamphlet no. 14, 1970, installation of standpipes and hose systems. Shop drawings shall be submitted to the authority having jurisdiction for approval before installation.

History: 1954 ACS 74, p. 38, Eff. May 15, 1973.

R 29.196 Automatic sprinklers.

Rule 196. (1) An automatic sprinkler system shall be installed in new construction to protect the following areas: Incinerator rooms; storage rooms for combus-

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tibles and commercially equipped laundry rooms more than 500 square feet in area; auditorium stages and enclosed platforms more than 500 square feet in area; stage dressing rooms, prop and craft rooms and understage areas; rubbish chutes, laundry chutes, chute drop rooms or bins; windowless buildings and windowless floors of school buildings. Access shall be provided for replacement of all sprinkler heads.

(2) Complete shop drawings shall be submitted to the authority having jurisdiction for approval before installation of sprinklers.

(3) The architect shall assure an adequate sprinkler water supply, except for a project where service of an architect is not required, then it shall be the responsibility of the owner.

(4) Where more than 2 sprinklers are required in a space, they shall be installed and supplied as an automatic sprinkler system.

(5) An automatic sprinkler system shall be equipped with a flow alarm electrically relayed to the fire alarm system of the school building and sprinkler system shutoff valves shall be electrically supervised to the principal's office, except for sprinklers installed in compliance with R 29.197(1).

History: 1954 ACS 74, p. 39, Eff. May 15, 1973.

R 29.197 Sprinkler water supply.

Rule 197. (1) When approved by the authority the sprinkler piping for an isolated hazardous area which can be adequately protected by not more than 2 sprinklers may be connected directly to the domestic water system at a point where not less than a 1-inch supply is available. An approved outside screw and yoke valve and check valve shall be installed between such sprinklers and the connection to the domestic water system.

(2) Where there is not adequate water from a public water system to supply a sprinkler system and the area to be protected is not more than 20,000 square feet, a special pressure tank supply for an automatic sprinkler system in compliance with the national fire protection association pamphlet no. 22, 1970, water tanks for private fire protection, shall be provided. A special pressure tank shall contain 2,000 gallons of water in a 3,000-gallon tank for a partial system and for a complete building system shall contain 3,000 gallons of water in a 4,500-gallon tank. A special pressure tank supplying sprinkler water for a school building being protected in its entirety shall not be located in a heating plant room.

(3) Where there is not adequate water from a public water supply to a sprinkler system and the area to be protected is more than 20,000 square feet, means of water supply shall be subject to the approval of the state fire marshal or other authority having jurisdiction.

History: 1954 ACS 74, p. 39, Eff. May 15, 1973.

R 29.198 Buildings with complete sprinkler protection; waiver of other requirements.

Rule 198. (1) A school building with an automatic sprinkler system throughout may eliminate the other items of fire protection hereinafter described and normally required in an unsprinklered building.

(2) The building may be completely windowless.

(3) A partition separating a room from a corridor does not need a fire-resistance rating and may contain plain glass, but shall be a rigid, reasonably smoketight partition. Corridor-room partitions will not be required where the sprinkler water supply is from either an approved reliable public system capable of supplying not less than 500 gallons per minute with a residual pressure of 15

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pounds at the top line of sprinklers or by a gravity tank of not less than 30,000 gallons riding on the system.

(4) Interior finishes otherwise required to be class A, may be class B; and otherwise required to be class B, may be class C.

(5) A stairway need not be enclosed in a building of not more than 2 stories.

(6) Steel framing members do not need to be protected in a building of not more than 2 stories.

(7) A concealed space above a ceiling, if noncombustible, may be used for air handling in a building of not more than 2 stories. This, in conjunction with subrule (6), includes noncombustible, nonrated ceilings of any type, if an automatic smoke detection system is installed in an area immediate to the return air intake of each air handling unit, actuation of which will shut off the motor of the unit.

(8) Subrules (3), (6), and (7) do not apply to a hazardous room which is required to be separated from the remainder of the building by construction having a 1-hour fire-resistance rating.

(9) Sprinklers may be eliminated only in a noncombustible swimming pool which has no combustible seating, if the entire pool area is separated from the remainder of the building by construction having a 1-hour fire-resistance rating, including doors and frames, and in shower rooms of locker areas without any requirement for separation.

(10) Standpipes as specified in R 19.194 are not required in 2- and 3-story buildings.

(11) For modified requirements for distance to exits, see R 29.44(1) and R 29.105(2).

History: 1954 ACS 74, p. 39, Eff. May 15, 1973.

PART 3. SPECIAL REQUIREMENTS FOR EXISTING SCHOOLS

R 29.201 Applicability.

Rule 201. (1) This part applies to school buildings upon inspection by an authorized inspection authority as provided for in section 8 of Act No. 207 of the Public Acts of 1941, as amended, being §29.8 of the Michigan Compiled Laws. Written notice shall be given to a school board of a public school, school owner of a private or parochial school, and where applicable, to a duly authorized agent of such school board or school owner by the inspecting authority finding conditions requiring correction.

(2) Except as hereinafter provided, fire safety requirements for an existing school shall be the same as those herein provided for new school construction.

History: 1954 ACS 74, p. 40, Eff. May 15, 1973.

R 29.203 Exits.

Rule 203. (1) In a school building of noncombustible or fire-resistive construction or a building protected completely with an automatic sprinkler system, or otherwise approved by the inspecting authority, a dead end may not extend more than 20 feet measured from the door of the classroom or student-occupied area to the stairway or other means of exit.

(2) A deficiency in exits may be corrected, in a building not more than 3 stories above grade, by installing fire escapes.

(3) Except as provided in subrule (1), a door from a classroom and other student-occupied room shall enter the corridor between exits or there shall be direct egress to the outside from the room.

(4) A student-occupied room, such as a shop, science laboratory, cooking area of a homemaking suite, and other similar facility having inherent fire hazards

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where only 1 means of egress is provided, shall require a second exit if any of the following circumstances exist:

(a) In the opinion of the inspecting authority a fire resulting from any operation or involving equipment would obstruct reasonably safe use of the single exit.

(b) The area of the room is more than 1,500 square feet.

(c) The normal path of travel from the most remote portion of the room is more than 50 feet to the existing exit from the room.

History: 1954 ACS 74, p. 40, Eff. May 15, 1973.

R 29.205 Exit corridors.

Rule 205. (1) Where a required exit corridor has been approved before the effective date of these rules which required exiting through a use area, usually a multi-use room, not separated from the corridor by partition and doors, and in the opinion of the inspecting authority the exposure does not constitute an unusual hazard due to contents and other features such as interior finishes and other building exit arrangements, the egress may continue to be used if a defined exitway is provided through the area which will assure no obstructions to the exit path.

(2) Except as provided in subrule (1), corridor partitions separating other nonhazardous rooms from corridors shall be reasonably smoketight, may contain plain glass and have doors which are not equivalent to 1¾-inch solid wood core.

History: 1954 ACS 74, p. 40, Eff. May 15, 1973.

R 29.207 Stairway enclosures.

Rule 207. (1) Except as hereinafter provided, a stairway and passageway constituting a required exitway shall be enclosed and arranged to provide a continuous path of escape to the outside and provide protection for persons using the stairway against fire and smoke from other parts of the school building. Where this is impractical because of design or construction, the inspecting authority may accept the alternative of fire-resistive separation of floors, and require fire escapes that provide at least ½ of the required units of exit facility afforded by the stairways.

(2) Where a stairway enclosure is required in a school building not more than 2 stories, the enclosure may be provided at the lower floor level only.

(3) A stairway enclosure is not required in a 2-story building of combustible construction if the building is completely protected with an automatic sprinkler system.

(4) A stairway enclosure is not required in a building of not more than 2 stories and of fire-resistive or noncombustible construction unless the stairway affects a future addition of 2 or more stories, therefore requiring enclosure.

(5) A stairway which is not a part of a required exit shall be enclosed to effect a separation of floors. In a 2-story building this stairway may be enclosed at either the first or second floor level.

History: 1954 ACS 74, p. 40, Eff. May 15, 1973.

R 29.208 Stairway enclosure construction.

Rule 208. (1) A required stairway enclosure partition at a floor above grade level, whether for a continuous protected exit to the outside or as a fire-resistive construction between floors, shall be of noncombustible construction and installed to be smoketight. One-quarter inch wired glass installed in substantial steel frames will meet this requirement. Doors shall be underwriters' laboratories, inc., C labeled or factory mutual ¾-hour labeled.

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(2) An interior basement stairway or opening communicating with a floor above shall be enclosed with materials having a 1-hour fire-resistance rating including underwriters' laboratories, inc., B labeled or factory mutual 1- or 1½-hour labeled fire door assembly. Where such a basement is occupied by classrooms, the interior basement stairway doors required for exit shall be C or ¾-hour labeled.

(3) Where it is necessary to include a door from a room in a stairway enclosure, the opening shall be protected with an underwriters' laboratories, inc., B labeled or factory mutual 1- or 1½-hour labeled fire door assembly.

History: 1954 ACS 74, p. 41, Eff. May 15, 1973.

R 29.209 Other vertical openings.

Rule 209. An exterior wall of frame construction and an interior stud partition shall be fire stopped at each floor and attic level by a 2-inch thick plate or masonry filling, completely closing any possible vertical opening from 1 story to another.

History: 1954 ACS 74, p. 41, Eff. May 15, 1973.

R 29.211 Fire escapes.

Rule 211. A fire escape shall be constructed in compliance with state uniform specifications for fire escapes. An existing fire escape not in conformity with the state uniform specifications for fire escapes shall be replaced or modified to meet these specifications. A fire escape which is not or will not be used as an exit in fire drills shall be replaced with an approved exit facility.

History: 1954 ACS 74, p. 41, Eff. May 15, 1973.

R 29.213 Fire doors.

Rule 213. (1) A fire door assembly shall be as specified for location and ratings in compliance with R 29.81 and R 29.82, except that an unlabeled door and frame installed before May 15, 1961, may remain if, in the opinion of the inspecting authority, it is reasonably comparable to a labeled door by having a 1¾-inch solid wood core and not a hollow core or panel, and is in a solid substantial frame.

(2) Where necessary to replace an existing door with a labeled fire door, the existing frame need not be replaced if, in the opinion of the inspecting authority, it is in good repair, solid, and well anchored.

(3) Louvers in a required fire door or its counterpart shall be permanently closed by installation of not less than 14-gauge steel plates on each side of the opening.

History: 1954 ACS 74, p. 41, Eff. May 15, 1973.

R 29.215 Windowless buildings and underground areas.

Rule 215. Requirements for special windows and sprinklering of a windowless school building and underground area, as described in R 29.111 and R 29.112, do not apply to an existing building of such type, plans for which were approved before January 9, 1967.

History: 1954 ACS 74, p. 41, Eff. May 15, 1973.

R 29.217 Interior finishes.

Rule 217. (1) Interior finish of a wall or ceiling shall not be more hazardous than class B in a corridor and exitway and in a room for more than 200 persons. In any other occupied room, interior finish shall not be more hazardous than class C if this room is separated from corridors and exitways by partitions having a ½-hour fire-resistance rating, except existing doors. One-quarter inch wired glass

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installed in substantial steel frames will meet this requirement. Class C finish material shall be applied directly to, or be furred out not more than 1 inch from, a noncombustible surface, except as specified otherwise in subrule (4).

(2) Where combustible interior finishes comprise more than 10% of the aggregate wall and ceiling surfaces of an occupied room or space, and where such material is more hazardous than permitted in subrule (1), such combustible interior finish may be painted with a fire retardant coating approved for the type of material to be covered to comply with subrule (1), if such material is secured to the walls or ceilings as specified in subrule (1). Such coating shall be renewed at intervals necessary to maintain the flame spread qualities.

(3) In a building of more than 1 story, where interior finish is more hazardous than class B and where it is furred out more than 1 inch from a noncombustible wall or ceiling, such material shall be replaced with class A or B material, or be reinstalled and treated to comply with the requirements of subrules (1) and (2).

(4) In a 1-story building, where the underside of the roof constitutes the ceiling and is more hazardous than permitted in subrule (1), the required flame spread classification of the existing surface may be secured by applying an approved fire retardant coating. If the ceiling material, whether surface treated or not, is more hazardous than permitted in subrule (1) and is suspended from the roof or a ceiling without a noncombustible backing, it shall be replaced with permissible material or be reinstalled directly to the roof deck or ceiling and treated with an approved fire retardant coating to secure the required flame spread classification.

(5) Where a corridor or exitway is approved for continued use as a return air plenum, its wall and ceiling finishes shall be class A.

History: 1954 ACS 74, p. 41, Eff. May 15, 1973.

R 29.218 Interior finish exceptions.

Rule 218. Subrules (1) to (4) of R 29.217 do not apply to:

(a) An area protected with an automatic sprinkler system, nor to combustible interior finish in the form of wainscoting extending not more than 5 feet above the floor.

(b) A school building where exits are provided directly to the outside from every classroom, except rooms for more than 200 persons and corridors serving such rooms.

(c) An exposed part of a structural member complying with the requirements for heavy timber construction to the national fire protection association pamphlet no. 220, 1961, standard types of building construction. This does not include a construction known as, or similar to, "lamella." Laminated wood shall not delaminate under the influence of heat.

History: 1954 ACS 74, p. 42, Eff. May 15, 1973.

R 29.221 Fire alarm systems.

Rule 221. (1) Where a manual fire alarm system was installed and approved in compliance with school bulletin 412, 1956, authorized by the school building law, Act No. 306 of the Public Acts of 1937, as amended, it will not be required to be replaced in a 1-story school building of not more than 4 classrooms, or where an electrical, open circuit system was likewise installed and approved.

(2) A school building, except a 1-story building of not more than 2 classrooms, which is not equipped with a fire alarm system, shall install an approved electrically operated closed circuit, supervised fire alarm system having its electrical supply fused ahead of the main switch or disconnect.

History: 1954 ACS 74, p. 42, Eff. May 15, 1973.

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R 29.223 Heating plant locations and enclosures.

Rule 223. (1) An existing heating plant located beneath a part of a school building may be replaced, but shall not be expanded in capacity or be relocated beneath any part of the building.

(2) A heating plant shall be enclosed by an assembly of materials having a 1-hour fire-resistance rating, except that a heating plant room may have its roof and ceiling only of noncombustible materials having less than a 1-hour fire-resistance rating, if it is not located beneath any part of a school building.

History: 1954 ACS 74, p. 42, Eff. May 15, 1973.

R 29.224 Storage and laundry rooms and areas.

Rule 224. (1) A storage room for combustible materials and a room housing commercial-type laundry equipment of more than 500 square feet in area shall be separated from the remainder of the building with construction having a 1-hour fire-resistance rating. The rooms shall be protected by installation of an automatic sprinkler system where an adequate public or private water supply is available, or by an automatic fire detection system if such water supply is not available.

(2) A storage area beneath a stairway, if continued for such use, shall have its access doors located outside of any stairway enclosure and shall comply with the following:

(a) An access opening shall be protected by a B labeled fire door assembly.

(b) The area shall be separated from the remainder of the building by construction having a 1-hour fire-resistance rating, and if not in a fire-resistive or noncombustible building, shall be protected by an automatic sprinkler system.

History: 1954 ACS 74, p. 42, Eff. May 15, 1973.

R 29.225 Shops.

Rule 225. (1) An automotive or farm mechanics shop, located beneath any part of a school building not of fire-resistive construction, shall be relocated in compliance with the other requirements of this rule.

(2) Any other automotive or farm mechanics shop shall be separated from the remainder of the building by construction having a 1-hour fire-resistance rating.

(3) Any other shop shall be separated from the remainder of the building by construction having a 1-hour fire-resistance rating, except that where existing doors to the shop are C labeled, and ¼-inch wired glass in stationary steel frames is a part of an otherwise existing partition having a 1-hour fire-resistance rating, they need not be replaced.

(4) Where it is impractical to comply with subrules (2) and (3), a shop may be protected with an automatic sprinkler system where reasonably smoketight walls and doors acceptable to the inspecting authority separate the shop from corridors.

(5) For a secondary means of egress from a shop, R 29.203(4) applies.

History: 1954 ACS 74, p. 43, Eff. May 15, 1973.

R 29.227 Auditorium stages.

Rule 227. An auditorium stage shall be protected as required by R 29.161(1), except that the last sentence thereof does not apply to an existing stage if not designed or used for activities requiring combustible props or scenery sets.

History: 1954 ACS 74, p. 43, Eff. May 15, 1973.

R 29.231 Ventilation.

Rule 231. (1) Fan and air-handling equipment serving more than 1 classroom or single instructional area, shall be located in a room separated from other parts

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of the school building by construction having a 1-hour fire-resistance rating. A room housing fans and air-handling equipment shall not be used for combustible storage.

(2) A duct and plenum employing mechanical means for the movement of air and used for heating and ventilating, including a warm air heating system, plain ventilating system, air conditioning system and exhaust system, shall be constructed entirely of noncombustible material. Where ducts and plenums of an existing system are constructed wholly or in part of combustible materials, they shall be reconstructed entirely of noncombustible materials if practical. However, where such reconstruction is impractical due to design or construction, the inspecting authority may accept the existing installation if fire dampers are installed in the return air duct opening from each room or space.

(3) A fire damper shall be installed on the discharge side of a recirculating fan unit serving more than 1 classroom or single instructional area. Where practicable, an automatic smoke detector shall be located in the system at a suitable point in the return air duct ahead of the fresh air intake, actuation of which will open the electrical circuit supplying the fan motor. Where it is impracticable to locate a smoke detector ahead of the fresh air intake, such smoke detector shall be located at a suitable point in the air duct on the discharge side of the fan.

(4) An existing system using corridors or exitways as return air plenums shall be reconstructed to eliminate such use. If reconstruction is impractical due to design or construction, the inspecting authority may accept the existing system if an automatic smoke detector is installed in each separated area of such corridors or exitways to automatically open the electrical circuit supplying the fan motor. Such detector shall incorporate visible or audible signals to indicate trouble which would interfere with proper operation of the detector. A stairway shall not be used as a return air plenum.

(5) A fire damper need only be installed in an opening from a heating plant room where required by subrules (2) and (3), and in any other location where the inspecting authority, due to extenuating features and circumstances, may indicate the need.

History: 1954 ACS 74, p. 43, Eff. May 15, 1973.

R 29.241 Exit signs.

Rule 241. (1) A required exit, except from a classroom not constituting a public assembly place, shall be designated with an approved illuminated exit sign. Approved illuminated directional exit signs shall be installed where needed in a school building normally used during hours of darkness or in a building normally requiring artificial illumination for exitways during the day.

(2) In a building not normally used during hours of darkness, the inspecting authority may require approved illuminated exit signs and approved illuminated directional exit signs where there may be a reasonable doubt as to location or identity of the required exits.

History: 1954 ACS 74, p. 44, Eff. May 15, 1973.

R 29.243 Standpipes.

Rule 243. The requirement for a standpipe system in R 29.194 does not apply to an existing school building.

History: 1954 ACS 74, p. 44, Eff. May 15, 1973.

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R 29.247 Proceedings for abatement of fire hazards.

Rule 247. These rules shall not be construed to prevent proceedings for the abatement of a fire hazard as provided for in Act No. 207 of the Public Acts of 1941, as amended.

History: 1954 ACS 74, p. 44, Eff. May 15, 1973.

PART 4. MAINTENANCE

R 29.251 Fire safe maintenance.

Rule 251. A public and private school building and the parts thereof, both existing and new, shall be maintained in a fire safe condition. The school district board or owner or his designated agent is responsible for fire safe maintenance of the building at all times.

History: 1954 ACS 74, p. 44, Eff. May 15, 1973.

R 29.253 Exitways.

Rule 253. (1) The clear width of a doorway, corridor, passageway, or other exitway required by these rules shall not be obstructed or reduced.

(2) An exterior stairway or fire escape shall be kept clear of snow, ice, and obstructions. It shall be scraped and properly painted as often as necessary to maintain it in safe condition. No sign or other obstruction shall be attached to the building that interferes with free operation and use of such means of egress.

History: 1954 ACS 74, p. 44, Eff. May 15, 1973.

R 29.256 Doors.

Rule 256. (1) A door from a room to a corridor and to the outside from a room, a door from a corridor to a stairway, and a door from a corridor or a stairway to the outside shall be maintained in good repair, be easily opened at all times and latch freely in a closed position.

(2) A fire door shall be maintained in good repair as provided in subrule (1), and an irreparable fire door shall be replaced.

History: 1954 ACS 74, p. 44, Eff. May 15, 1973.

R 29.257 Door hardware.

Rule 257. (1) The closing device on a fire door shall be maintained in good operating condition so it will cause the door to tightly close upon release from an open position. The synchronizing closing devices of double doors without mullions shall be maintained in good operating condition.

(2) Panic bar hardware shall be maintained free and in good operating condition. Chains or other devices shall not be placed on such hardware for the purpose of making the doors inoperable during normal occupancy by other than custodial personnel.

(3) Nonoperating and irreparable door hardware shall be replaced.

(4) Hooks, eyes, bolts, bars, or rimlocks shall not be placed on a door required for exiting purposes, and any such door locking or holding device on an existing door shall be removed during occupancy by other than custodial personnel.

(5) An under-door wedge or other hold-open device other than those permitted by these rules shall not be used or permitted to remain on or near a fire door.

History: 1954 ACS 74, p. 44, Eff. May 15, 1973.

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R 29.261 Air-handling systems.

Rule 261. (1) An air-handling system operated only part of the year shall be given a thorough general checkup before starting operation and again after shutting down.

(2) An inspection to determine the amount of dust and waste material in discharge and return ducts shall be made quarterly. If after several inspections such frequent inspection is found unnecessary, the interval between inspections may be adjusted to suit the conditions.

(3) Cleaning of the system shall be undertaken when inspection indicates the need.

(4) Cooling and heating coils shall be cleaned at the time of cleaning the ducts. Thorough cleaning of ducts may require scraping, brushing or other positive means.

(5) A plenum chamber shall be inspected monthly. If after several inspections such frequent inspection is found unnecessary, the interval between inspections may be adjusted to suit the conditions. A plenum chamber shall not be used for combustible storage.

(6) Where an area above a ceiling is used for air handling, a part of the ceiling which is removed for any purpose shall be replaced immediately after the purpose for removal is accomplished, and any clips or fasteners replaced or secured.

History: 1954 ACS 74, p. 45, Eff. May 15, 1973.

R 29.262 Air filters.

Rule 262. (1) An air filter shall be kept free of excess dust and combustible material. A unit filter shall be replaced or cleaned if resistance to the air flow has increased to 2 times the original resistance or if resistance has reached a point where replacement is recommended by the manufacturer. A suitable draft gauge shall be provided for this purpose. A draft gauge of a type which will operate a warning light or produce an audible signal if excessive dust loads have accumulated is recommended. If a filter is of the automatic liquid adhesive type, sludge shall be regularly removed from the liquid adhesive reservoir.

(2) A filter intended to be thrown away after use shall not be cleaned and reused.

(3) Liquid adhesives shall have a flash point not less than 325 degrees Fahrenheit.

(4) Electrical equipment of an automatic filter shall be inspected monthly and the operation cycle observed to see that the motor, relays and other controls function as intended. Drive motors and gear reductions shall be inspected semiannually and lubricated when necessary.

History: 1954 ACS 74, p. 45, Eff. May 15, 1973.

R 29.263 Fans and motors.

Rule 263. (1) A fan and fan motor of an air-handling system shall be inspected quarterly and cleaned and lubricated if necessary. Care should be exercised in lubricating a fan to avoid allowing oil to run onto the fan blades. A fan should be checked for alignment and to see that it runs freely.

(2) Automatic fan controls shall be inspected annually.

History: 1954 ACS 74, p. 45, Eff. May 15, 1973.

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R 29.265 Fire doors and dampers.

Rule 265. (1) A fire door and fire damper should be examined annually and attention given to hinges and other moving parts to assure good operable condition.

(2) A fire damper which has been actuated by heat shall be replaced in service by replacing the fusible link, and no other method of fastening the damper in an open position shall be employed.

History: 1954 ACS 74, p. 45, Eff. May 15, 1973.

R 29.267 Smoke detection devices.

Rule 267. A smoke detection device located in an air handling unit, duct or plenum shall be cleaned when the duct or plenum is cleaned. Caution should be exercised in the use of open flames or spark emitting devices inside of ducts or plenum chambers, or near air intakes.

History: 1954 ACS 74, p. 45, Eff. May 15, 1973.

R 29.271 Fire alarm and detection systems.

Rule 271. (1) A fire alarm system shall be under supervision of a responsible person who shall cause proper tests to be made not less than monthly, maintain a record, and have general charge of alterations and additions.

(2) An open circuit fire alarm system shall be tested daily, before a school building is occupied by students, under a schedule which will test all stations on a regular basis.

(3) A record of tests required in subrules (1) and (2) shall be maintained and made available to the inspecting authority.

(4) A fire alarm system shall be restored to service as promptly as possible after each test or alarm and shall be kept in normal condition for operation. Equipment requiring rewinding or replenishing shall be rewound or replenished as promptly as possible after each test or alarm.

(5) Where break-glass type fire alarm boxes are used, at least 1 extra glass shall be maintained on the premises for each 20 stations of the system.

(6) An automatic smoke and heat detection system should be inspected monthly.

History: 1954 ACS 74, p. 45, Eff. May 15, 1973.

R 29.275 Fire drills and fires.

Rule 275. (1) A minimum of 10 drills is required for each school year. However, if weather conditions will not permit fire drills to be held at least once a month, then at least 6 fire drills shall be held in the fall of each year and 4 fire drills shall be held during the remaining part of the school year.

(2) Upon indication of a fire alarm or of a fire, the first action shall be to notify the local fire department.

History: 1954 ACS 74, p. 46, Eff. May 15, 1973.

R 29.281 Sprinkler systems.

Rule 281. (1) A broken pipe hanger on a sprinkler system shall be promptly replaced and a loose hanger shall be refastened.

(2) Stockpiling, racks, and other obstructions to a sprinkler pattern shall be maintained not less than 18 inches below sprinklers and, in case of piles of large, closely packed cases, bales, and cartons, a clearance of 36 inches below sprinklers shall be maintained.

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(3) A supply of extra sprinklers and a sprinkler wrench shall be kept in a cabinet provided for that purpose.

(4) Piping shall not be used for support of stock or other material including other service piping and equipment.

(5) A wet piping system or part of a system shall not be exposed to freezing temperatures.

(6) If a system is shut off for repairs or other reason, it shall be replaced in service as soon as possible.

(7) A sprinkler head shall not be painted and if inadvertently painted shall be immediately replaced.

History: 1954 ACS 74, p. 46, Eff. May 15, 1973.

R 29.282 Sprinkler system weekly inspections.

Rule 282. A weekly inspection shall be made of the following items for assurance that a sprinkler is always ready for operation:

(a) For wet and dry pipe systems:

(i) That any post indicator valve is open.

(ii) That any outside screw and yoke valve is open.

(iii) That water pressure gauges show normal pressures.

(b) For dry pipe systems, that air pressure gauges show normal pressures.

(c) For pressure tank supplied systems (gauge cocks shall remain closed except if test of water level is being made):

(i) That water level is being maintained at the proper level.

(ii) That items of subdivisions (a) and (b) are checked.

(d) For fire department connections:

(i) That caps are in place, since an open pipe could permit introduction of foreign material into the system.

(ii) That the ball drip is in working order.

(iii) That the check valve is not leaking.

History: 1954 ACS 74, p. 46, Eff. May 15, 1973.

R 29.283 Sprinkler system quarterly flow tests.

Rule 283. A quarterly flow test shall be made of wet pipe systems by opening the inspector's test valve. A quarterly test shall also be made at the drain valve to check water gauge pressures on the system side of the check valve. A test shall not be run on a system connected directly to the fire department or central station without first advising them of the test. Proper training for building personnel should be obtained from the sprinkler contractor installing the system.

History: 1954 ACS 74, p. 46, Eff. May 15, 1973.

R 29.284 Sprinkler system monthly and annual tests.

Rule 284. (1) A monthly test shall be made of the water flow alarm through the alarm test at the main valve for testing the relay of flow to the alarm system of the building. Proper training for building personnel should be obtained from the sprinkler contractor installing the system.

(2) A dry pipe valve shall be tripped, cleaned, and reset annually. This should be done only by a qualified person who has been properly trained and with adequate practical experience with dry pipe valves and sprinkler systems.

(3) A test shall not be run on a system that is connected directly to the fire department or central station without first advising them of the test.

History: 1954 ACS 74, p. 47, Eff. May 15, 1973.

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R 29.285 Standpipes.

Rule 285. (1) Standpipe valves shall be inspected weekly to assure they are always in open position.

(2) Fire department connections to a standpipe shall be checked weekly to assure caps are in place, that the ball drip is operative and that the check valve is not leaking.

(3) Where first aid hose is connected to a standpipe, the valve shall be checked for leakage. Wet hose shall be removed and dried as a prevention against mildew and rot. Old irreparable hose should be replaced.

History: 1954 ACS 74, p. 47, Eff. May 15, 1973.

R 29.287 Fire extinguisher inspections and recharging.

Rule 287. (1) A fire extinguisher shall be inspected annually and defective equipment repaired or replaced.

(2) A soda acid and a water-type extinguisher shall be recharged annually as follows and tagged with the date of recharging:

(a) Where CO_2 in a cartridge is the expellant, the cartridge shall be weighed, and if its weight is under that stamped on the cartridge, the cartridge shall be replaced.

(b) Where air is the expellant, air pressure shall be maintained at a satisfactory level as indicated on the gauge.

(3) A dry chemical extinguisher need not be recharged except after use, however:

(a) The proper chemical level shall be checked annually.

(b) An expellant cartridge shall be weighed and the requirements of subrule (2)(a) shall be followed.

(c) Where air pressure is used, the air shall be run through a drying device to remove all moisture.

(d) The date of recharging or annual check shall be recorded on a tag which shall be attached to the extinguisher.

(4) A carbon dioxide extinguisher, CO_2, shall be weighed annually to ascertain that it is properly charged and fully loaded. The weights of the extinguisher when empty and when fully loaded are stamped on the valve, and the weight differential is that of the extinguishing agent. The date of recharging or annual check shall be recorded on a tag which shall be attached to the extinguisher.

History: 1954 ACS 74, p. 47, Eff. May 15, 1973.

R 29.288 Fire extinguisher hydrostatic tests.

Rule 288. A fire extinguisher shall be hydrostatically tested at intervals as follows:

Extinguisher Type	Test Interval in Years
Soda-acid	5
Cartridge-operated water or antifreeze	5
Carbon dioxide	5
Stored-pressure water or antifreeze	5
Wetting agent	5
Foam	5
Loaded stream	5
Dry chemical, with stainless steel shell, or soldered-brass shell	5
Dry chemical, with braised-brass shell or mild steel shell	12
Dry powder, for metal fires	12

History: 1954 ACS 74, p. 47, Eff. May 15, 1973.

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R 29.291 Exit lights.

Rule 291. An exit light circuit sustaining an electrical outage shall be corrected as rapidly as possible. A burned out bulb in an exit sign shall be replaced without delay.

History: 1954 ACS 74, p. 48, Eff. May 15, 1973.

R 29.293 Fire retardant paints.

Rule 293. Where fire retardant paint has been applied in an existing school building to retard combustibility, and where moisture or other conditions have caused flaking or peeling or where washing has removed any of the paint surface, a reapplication of fire retardant paint for the type of product being covered shall be made in compliance with listings by underwriters' laboratories, inc., and with R 29.122, R 29.217, and R 29.218.

History: 1954 ACS 74, p. 48, Eff. May 15, 1973.

R 29.295 General housekeeping.

Rule 295. (1) A building shall be kept clean and free from accumulation of unnecessary combustible material.

(2) Necessary combustible items shall be kept in rooms designed and approved for such storage and in no other location.

(3) Oxygen, combustible gases, and flammable liquids shall not be stored with each other nor with other ordinary combustible materials.

(4) Rubbish shall be disposed of as soon as possible after its collection.

History: 1954 ACS 74, p. 48, Eff. May 15, 1973.

R 29.296 Electrical systems.

Rule 296. (1) When planning additional electrical equipment, lighting, or appliances, advice of persons competent in electrical matters shall be sought and followed.

(2) Where fuses or circuit breakers cause open circuits, the circuits shall not be overfused. Care should be taken that electrical services and circuits are not overloaded.

History: 1954 ACS 74, p. 48, Eff. May 15, 1973.

R 29.297 Gases.

Rule 297. (1) Means shall be taken to assure that gas service to a room where there are 3 or more gas outlets is shut off by the master valve if the room is not in use.

(2) Odors of gas shall be immediately reported to the gas supplier.

History: 1954 ACS 74, p. 48, Eff. May 15, 1973.

R 29.298 Overcrowding.

Rule 298. A room or space shall not be permitted to be overcrowded by persons beyond its area limitations and the number of persons the exit doors and facilities would accommodate, in compliance with R 29.36 and R 29.41 to R 29.46.

History: 1954 ACS 74, p. 48, Eff. May 15, 1973.

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FIRE FIGHTERS TRAINING COUNCIL

GENERAL RULES

(By authority conferred on the fire fighters training council by section 16 of Act No. 291 of the Public Acts of 1966, being §29.376 of the Michigan Compiled Laws)

R 29.401 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 291 of the Public Acts of 1966, being §29.361 et seq. of the Michigan Compiled Laws.

(b) "Council" means the fire fighters training council.

(c) "Executive secretary" means the executive secretary of the council.

(d) "Fire fighter" means a member of an organized fire department who is either an employee of the department or a volunteer.

(e) "Staff member" means the executive secretary, field coordinator, or curriculum writer employed full time by the council.

History: 1954 ACS 99, p. 15, Eff. May 2, 1979.

R 29.402 Council-approved course; instruction hour; recognition of training by council.

Rule 2. (1) A council-approved course shall be based upon all of the following:

(a) The time required to adequately cover the subject material.

(b) The ability of an average class to accomplish the established goals.

(c) Its relevancy to the needs of the fire service in Michigan.

(2) An instruction hour shall consist of 50 minutes of instruction time and 10 minutes break time, totaling 1 actual hour.

(3) The council shall only recognize training that is conducted by council-approved personnel.

History: 1954 ACS 99, p. 15, Eff. May 2, 1979.

R 29.403 Curriculum; examinations.

Rule 3. (1) An instructor, in conjunction with an advisory committee from the area and the coordinator, shall determine the emphasis to be given to the various subjects in the curriculum which are necessary for proper training of a new fire fighter. The emphasis to be given to the various subjects in the curriculum shall be reviewed and approved by the executive secretary.

(2) A review, mid-term, and final examination shall be given in all courses. The examinations shall be approved by the council and shall be reviewed by council staff members to ascertain if there is adequate comprehension of the subject material tested in the examinations.

(3) The examinations shall be conducted by council-approved personnel.

(4) A 70% average is required to successfully pass the examinations.

History: 1954 ACS 99, p. 15, Eff. May 2, 1979.

R 29.404 Attendance at training sessions; certificates.

Rule 4. (1) A trainee shall attend all sessions unless he has a valid reason for his absence. The instructor may, for valid reasons, excuse not more than 10% of the total hours of instruction. An absentee from a scheduled class session shall make up the absence as required by the instructor.

(2) After successful completion of the program, the council shall award a certificate to a trainee. If a trainee is trained in a 240-hour continuous course, certificates shall not be awarded for the class IV, class III, or class II portions.

History: 1954 ACS 99, p. 15, Eff. May 2, 1979.

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R 29.405 Classification of fire fighters; fire inspectors; officers.

Rule 5. (1) A class IV fire fighter is a person who has successfully completed the council-approved curriculum of a basic course not less than 66 hours in length.

(2) A class III fire fighter is a class IV fire fighter who has successfully completed the council-approved curriculum of an intermediate course not less than 60 hours in length.

(3) A class II fire fighter is a class III fire fighter who has successfully completed the council-approved curriculum of a basic advanced course not less than 60 hours in length.

(4) A class I fire fighter is a class II fire fighter who has successfully completed the council-approved curriculum of an advanced course not less than 60 hours in length.

(5) A fire inspector is a person who has successfully completed the council-approved curriculum of a basic fire inspector's course. A fire inspector may also be a person who has challenged the council-approved examination and passed the examination with a score of not less than 70%. A certificate shall be issued by the council upon the passing of the examination.

(6) A class III officer is a class IV fire fighter who has successfully completed the council-approved basic fire officer's course of not less than 40 hours in length, and has passed a council-approved examination for this course with a score of not less than 70%. A class III officer may also be a person who has challenged the council-approved comprehensive examination for this classification and passed the examination with a score of not less than 70%.

(7) A class II officer is a class III fire fighter and a class III officer who has successfully completed the council-approved intermediate fire officer's course of not less than 40 hours in length, and has passed a council-approved examination for this course with a score of not less than 70%. A class II officer may also be a person who has challenged the council-approved comprehensive examination for this classification and passed the examination with a score of not less than 70%.

(8) A class I officer is a class I fire fighter and a class II officer who has successfully completed the council-approved advanced officer's course of not less than 40 hours in length, and has passed a council-approved examination for this course with a score of not less than 70%. A class I officer may also be a person who has challenged the council-approved comprehensive examination for this classification and passed the examination with a score of not less than 70%.

History: 1954 ACS 99, p. 15, Eff. May 2, 1979.

R 29.406 Training on a regional basis; exception; location of schools.

Rule 6. (1) With the exception of in-service training, all training offered by the council shall be on a regional basis, and all classes shall contain trainees from more than 1 department.

(2) The council may enter into an agreement with a department or departments to provide training on a regional basis.

(3) The field coordinator shall make the final determination regarding the location of any council-approved or council-sponsored school.

History: 1954 ACS 99, p. 16, Eff. May 2, 1979.

R 29.407 In-service training program.

Rule 7. If 75% of the members of a department are in or above the same classification, the department may participate in the council-approved in-service training program by notifying the executive secretary of its percentage factor. Upon receipt of such information, the department shall begin to receive drill plans

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and shall continue to receive drill plans on a periodic basis. The drill plan shall be so designed that, if properly used, it outlines a drill 3 hours in length or 3 drills 1 hour in length, and over a period of 12 months it shall constitute a refresher course in all categories of training required for that classification. For example, if of the 100 persons in a department, 66 are in the fire fighter II classification, 5 are in the fire fighter I classification, and 29 are in officer II classification, the department may request drill plans for the fire fighter II classification.

History: 1954 ACS 99, p. 16, Eff. May 2, 1979.

R 29.408 Instructor certification generally.

Rule 8. (1) An applicant for an instructor's certificate shall submit all the necessary supporting information and data, on forms provided by the council, to the executive secretary for review and recommendation for council approval.

(2) An applicant shall have the approval and recommendation of his agency head.

(3) The executive secretary may, at the direction of the council, issue a provisional certification, which may be in effect for a period not to exceed 6 months from the date of issuance.

(4) Within 6 months after the date of issuance of a provisional certification, a council staff member shall evaluate and test the applicant to determine his competence, and shall either recommend or not recommend the applicant for "B" certification. The executive secretary may extend this time period.

History: 1954 ACS 99, p. 16, Eff. May 2, 1979.

R 29.409 Instructor "B" certification.

Rule 9. (1) An applicant for instructor "B" certification shall demonstrate his ability to instruct by being evaluated in a teaching situation by a member of the council staff and receiving approval by that staff member.

(2) An applicant shall submit to a staff member evidence that he possesses adequate knowledge of the subject or subjects he proposes to teach and the methodology necessary to communicate to a class.

(3) An applicant shall be capable of teaching at least 1 subject approved by the council.

(4) Upon receiving a favorable evaluation report regarding an applicant's teaching ability, the council shall issue a "B" certificate.

History: 1954 ACS 99, p. 16, Eff. May 2, 1979.

R 29.410 Instructor "A" certification.

Rule 10. (1) An applicant for an instructor "A" certification shall be certified as an instructor "B" and shall be qualified to teach the entire basic fire fighter's course.

(2) An applicant shall successfully complete a council-approved course, not less than 40 hours in length, in teaching methodology.

(3) An applicant shall presently be in the fire service and shall have a minimum of 5 years of fire fighting experience.

(4) An applicant for an instructor "A" certification shall be evaluated in a teaching situation while conducting a class in 1 or more subjects not in the basic fire fighter's curriculum.

(5) Upon receiving a favorable evaluation report regarding the applicant's teaching ability, the council shall issue an "A" certificate to the applicant.

(6) The holder of an "A" certificate shall be considered qualified to teach any council-approved course.

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(7) In place of subrules (1), (2), and (3), an applicant may be tested by council staff personnel using an examination and criteria approved by the council and shall achieve a minimum passing score of not less than 70%.

History: 1954 ACS 99, p. 17, Eff. May 2, 1979.

R 29.411 Recognition of training conducted by certified instructor; exceptions.

Rule 11. The council shall recognize all training conducted by a certified instructor, except for justifiable reasons, including, but not limited to, any of the following:

(a) Inability to convey the subject matter of training to the trainee or trainees.

(b) Intoxication, or being under the influence of a controlled substance while teaching.

(c) Failure to instruct as the lesson plan indicates.

(d) Failure to comply with instructions given by the coordinator. These instructions shall be in writing and based on the policies and procedures established by the council.

(e) Teaching a subject not approved by the council.

(f) Conviction of a felony or a high misdemeanor.

History: 1954 ACS 99, p. 17, Eff. May 2, 1979.

R 29.412 Retention of certification by instructor.

Rule 12. (1) An instructor shall retain certification if he teaches council-approved courses in some manner for not less than 24 clock hours in a continuous 24-month period.

(2) If training is in classes other than in council-sponsored schools, the training may be reported to the council, on forms provided by the council, not less than every 6 months.

(3) If an instructor fails to comply with subrule (1) of this rule, the instructor may be recertified by the council only after the council receives a favorable evaluation report regarding the applicant. The instructor shall be evaluated within 90 days of the council meeting in which this action is taken.

(4) Special provision may exist which allows for a continual certification of instructors in the department of natural resources, department of state police, fire marshal division, and public utilities.

History: 1954 ACS 99, p. 17, Eff. May 2, 1979.

R 29.413 Training school; facilities; separations; approval.

Rule 13. (1) A fire fighter training school shall have available rooms and facilities in order to efficiently carry out its program of instruction.

(2) If separations are required in the program of instruction, drill areas, apparatus, equipment, and supportive services shall be available.

(3) A training school may be approved by the executive secretary upon the recommendation of a coordinator. The council reserves the right to overrule the decision of the executive secretary.

History: 1954 ACS 99, p. 17, Eff. May 2, 1979.

R 29.414 Recognition of training given by other states.

Rule 14. (1) The council may recognize training given to trainees by agencies of other states, if all of the following conditions are satisfied:

(a) The training is in a state-authorized or approved course.

(b) The training is given by a state-authorized instructor.

(c) The state agency supervises the instruction.

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(d) The instruction is based on manuals available from the international fire service training association or equivalent training materials.

(e) A lesson plan for each subject is available to all participating states for examination and review.

(f) A copy of the training record of the individual is forwarded to the office of the state fire fighter training agency of the state where the person has applied for recognition. The record shall reveal the subjects, dates of training, and number of hours of training in each category. The request for the record shall be made by the individual to the agency in the state that the individual is leaving, and the transcript shall be sent directly from that office to the fire fighter training agency of the state the person is entering.

(2) The presentation of records exchanged pursuant to subrule (1) shall not automatically result in certification by this state. Each case shall be considered individually and the person in question may be required to demonstrate manual skills and to submit to a written or oral examination given by a staff member of the council. An explanation of the manual skills performed and a copy of the written or oral examination shall be approved by the executive secretary.

History: 1954 ACS 99, p. 18, Eff. May 2, 1979.

STATE FIRE SAFETY BOARD

HEALTH CARE FACILITIES FIRE SAFETY

(By authority conferred on the state fire safety board by section 3c of Act No. 207 of the Public Acts of 1941, as amended, being §29.3c of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 29.1101 Scope.

Rule 101. (1) These rules set forth minimum requirements for fire safety in both new hospital and institution construction and in existing hospital and institution buildings. They are based on recognized good practices as evidenced by standards adopted by nationally recognized authorities in the field of fire protection with necessary clarifications and interpretations, as they apply to hospital and institution occupancies. Additional requirements appear in Act No. 299 of the Public Acts of 1947, being §331.501 et seq. of the Michigan Compiled Laws, and in Act No. 139 of the Public Acts of 1956, as amended, being §331.651 et seq. of the Michigan Compiled Laws. These acts should be reviewed and complied with.

(2) These rules deal with life safety from fire and other emergencies associated with fire. They cover construction, protection, and occupancy features to minimize danger to life from fire, smoke, fumes, or panic before buildings are vacated or the occupants removed to protected areas of refuge within the building. They specify the number, size, and arrangement of exit facilities sufficient to permit prompt escape or removal of occupants from buildings or their removal to areas of refuge within buildings in case of fire or other conditions dangerous to life associated with fire.

(3) These rules recognize that life safety from fire and other emergencies associated with fire is more than a matter of exits and evacuation and, therefore, are also concerned with occupancy and with the confining of a fire to the point of

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origin by area limitations, by separation of activities and storage, by early detection and supervision by staff personnel, as well as by other forms of protection.

(4) These rules relate to fire safety only and do not include other mandatory features of hospital and institution construction, or recommendations relative to hospital and institution construction required by other agencies.

History: 1954 ACS 100, p. 6, Eff. July 18, 1979.

R 29.1105 Applicability.

Rule 105. (1) These rules apply to construction of a new hospital or an institution, as well as to additions to and reconstruction, conversion, remodeling, and maintenance functions as prescribed under part 4 of these rules, of an existing hospital or institution, both public and private, required to be licensed in compliance with Act No. 139 of the Public Acts of 1956, as amended, being §331.651 et seq. of the Michigan Compiled Laws, Act No. 17 of the Public Acts of 1968, as amended, being §331.411 et seq. of the Michigan Compiled Laws, Act No. 280 of the Public Acts of 1939, as amended, being §400.1 et seq. of the Michigan Compiled Laws, and Act No. 207 of the Public Acts of 1941, as amended, being §29.1 et seq. of the Michigan Compiled Laws.

(2) These rules do not apply to a building used for a doctor's office, a clinic, or an occupancy other than a hospital or an institution where overnight care is not given.

(3) Buildings built under, and in full compliance with, the rules in force at the time of construction or alteration thereof, and that have been properly maintained and continually used for such use as originally permitted, shall be exempt from the requirements of these rules, except as may be specifically covered in these rules or as may be deemed necessary by the inspecting authority for the general safety and welfare of the occupants and the public.

History: 1954 ACS 100, p. 6, Eff. July 18, 1979.

R 29.1110 Modification.

Rule 110. (1) A hospital or an institution board, the owner of a public or private hospital or an institution, or the authorized agent of a hospital, or an institution board or owner, confronted with practical difficulties in complying with these rules, may apply to the state fire marshal in writing, stating the particulars and reasons for any modification requested.

(2) The state fire safety board may vary the application of a rule, or modify a ruling or interpretation of the state fire marshal, if enforcement does manifest injustice and is contrary to the spirit and purpose of the rules or the public interest. The variance or modification shall be consistent with recognized good practices as evidenced by standards adopted by nationally recognized authorities.

History: 1954 ACS 100, p. 6, Eff. July 18, 1979.

R 29.1115 Adoption by reference.

Rule 115. (1) Some of these rules hereinafter refer to all or parts of the following codes, standards, or regulations of nationally recognized organizations or associations, which are adopted herein by reference and identified by date or otherwise:

(a) American gas association laboratories directory of certified appliances, July, 1978, available from the American Gas Association Laboratories, 8501 East Pleasant Valley Road, Cleveland, Ohio 44131. Single copies are available at $3.00.

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(b) Fire resistance ratings, 1964 (amendments 1968, 1970, 1972); available from the American Insurance Association, 85 John Street, New York, New York 10038. Single copies are available at $3.00.

(c) The following publications, copies of which are available per single copy and at the prices specified, from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103:

Fire Tests of Door Assemblies ASTM Standard No. E-152, 1976	$1.75
Method of Test for Measuring the Density of Smoke from the Burning or Decomposition of Plastics ASTM Standard D-2843, 1976	1.75
Noncombustibility of Elementary Materials ASTM Standard E-136, 1973	1.75
Test for Deflection Temperature of Plastics Under Load ASTM Standard D-648, 1972	1.75
Test for Flammability of Self-Supporting Plastics ASTM Standard D-635, 1976	1.75
Test for Ignition Properties of Plastics ASTM Standard D-1929, 1975	1.75
Test for Surface Burning Characteristics of Building Materials ASTM Standard E-84-77A, 1978	1.75
Tests for Thickness of Solid Electrical Insulation ASTM Standard D-374, 1974	1.75

(d) The following publications, copies of which are available per single copy and at the prices specified from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210:

Blower and Exhaust Systems, Dust, Stock and Vapor Removal NFPA Pamphlet No. 91, 1973	$3.00
Building Materials, Method of Tests of Surface Burning Characteristics NFPA Pamphlet No. 255, 1972	3.00
Bulk Oxygen Systems at Consumers Sites NFPA Pamphlet No. 50, 1974	3.00
Chimneys, Fireplaces and Venting Systems NFPA Pamphlet No. 211, 1977	3.00
Door Assemblies, Methods of Fire Tests of NFPA Pamphlet No. 252, 1976	3.00
Exposure Fires, Protection from NFPA Pamphlet No. 80A, 1975	3.00
Fire Doors and Windows NFPA Pamphlet No. 80, 1977	4.75
Flame-Resistant Textiles and Films NFPA Pamphlet No. 701, 1977	3.50
Incinerators, Rubbish Handling NFPA Pamphlet No. 82, 1977	3.00
Inhalation Anesthetics Code NFPA Pamphlet No. 56A, 1973	3.00
Installation of Sprinkler Systems NFPA Pamphlet No. 13, 1976	5.00
National Electrical Code NFPA Pamphlet No. 70, 1978	6.25
National Fuel Gas Code NFPA Pamphlet No. 54, 1974	4.75
Nonflammable Medical Gas Systems NFPA Pamphlet No. 56F, 1977	3.00
Portable Fire Extinguishers, Installation, Maintenance and Use NFPA Pamphlet No. 10, 1975	3.75

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Proprietary Protective Signaling Systems
NFPA Pamphlet No. 72D, 1975 ..... $3.50
Standpipe and Hose Systems
NFPA Pamphlet No. 14, 1976 ..... 3.00
Types of Building Construction
NFPA Pamphlet No. 220, 1975 ..... 3.00
Vapor Removal from Cooking Equipment
NFPA Pamphlet No. 96, 1976 ..... 3.00
Water Tanks NFPA Pamphlet No. 22, 1976 ..... 4.75

(e) The following publications, which are available per single copy and at the prices specified, from Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Illinois 60611:

Accident, Automotive and Burglary Protection Equipment Directory, 1977 $2.00
Air Filter Units, UL Standard No. 900, 1977 ..... 3.00
UL Building Materials Directory, 1978 ..... 4.25
Fire Dampers, UL Standard No. 555, 1973 ..... 3.00
UL Fire Protection Equipment Directory, 1978 ..... 2.50
UL Gas and Oil Equipment Directory, 1977 ..... 2.25
Test Method for Fire Hazard Classifications of Building Materials,
UL Standard No. 723, 1977 ..... 3.50

(f) State of Michigan fire damper clarification, fifth edition, 1975; available from Sheet Metal and Air Conditioning Contractors National Association, Inc., Metro-Detroit Chapter, Suite 305, 3221 West Big Beaver Road, Troy, Michigan 48084. Single copies are available at $3.00.

(2) In addition to the sources specified in subrule (1) for specific codes, standards, or regulations, copies of all of the items listed will be available from the office of the State Fire Safety Board, 7150 Harris Drive, Lansing, Michigan 48913, at prices either as indicated or at a cost to cover the expense of copying and mailing the indicated documents.

History: 1954 ACS 100, p. 6, Eff. July 18, 1979.

R 29.1120 Definitions; A, B.

Rule 120. (1) "Ambulatory" means a patient who, without the aid of another, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs.

(2) "Anesthetizing location" means an area of a hospital in which it is intended that a flammable or nonflammable inhalation anesthetic agent will be administered in the course of examination or treatment, including operating rooms, delivery rooms, emergency rooms, anesthesia rooms, corridors, utility rooms, and other areas when used for the induction of anesthesia with flammable or nonflammable anesthetizing agents with reference to an anesthetizing location:

(a) "Hazardous location" means that portion of a flammable anesthetizing location less than 5 feet from above the floor and a room or area adjoining such anesthetizing location without a door, and extending 10 feet laterally beyond a door from the anesthetizing location.

(b) "Flammable anesthetizing location" means an operating room, delivery room, anesthesia room, emergency room, treatment room, corridor, utility room, and any other area if used or intended for the use of flammable anesthetizing agents.

(c) "Nonflammable anesthetic agent" means an inhalation agent which, because of its vapor pressure at 37 degrees Celsius or 98 degrees Fahrenheit, and at

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atmospheric pressure, cannot attain flammable concentrations when mixed with air, oxygen, or mixtures of oxygen and nitrous oxide.

(3) "Approved" means acceptable to the state fire marshal.

(4) "Automatic fire detection system" means a local system incorporating devices listed by underwriters' laboratories, inc., fire protection equipment directory, 1978, and installed in compliance with national fire protection association pamphlet no. 72D, 1975, proprietary protective signaling systems.

(5) "Automatic sprinkler system" means a sprinkler system installed in compliance with national fire protection association pamphlet no. 13, 1976, installation of sprinkler systems.

(6) "Basement" means that portion of a building partly underground, but having less than half its clear height below the average grade of the adjoining ground.

(7) "Building" means a hospital or an institution building occupied by patients or residents.

(8) "Bulk oxygen system" means an assembly of equipment, such as oxygen storage containers, pressure regulators, safety devices, vaporizers, manifolds, and interconnecting piping, which has a storage capacity of more than 20,000 cubic feet of oxygen, normal temperature pressure, including unconnected reserves on hand at the site. The bulk oxygen system terminates at the point where oxygen at service pressure first enters the supply line. The oxygen containers may be stationary or movable, and the oxygen may be stored as gas or liquid.

History: 1954 ACS 100, p. 8, Eff. July 18, 1979.

R 29.1125 Definitions; C to E.

Rule 125. (1) "Cellar" means that portion of a building partly below grade, but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.

(2) "Combustible" means a flammable gas, flammable liquid, or a solid material which will ignite and burn. Tests shall be in compliance with the American society for testing and materials standard E-136, 1973, noncombustibility of elementary materials.

(3) "Combustible gas" means a gas which, when subjected to a source of ignition (arc, spark, or flame), will burn or explode if confined when the ratio of the concentration of gas-air mixture is within defined limits typical of the gas in question.

(4) "Conductive footwear" means shoes, each having a sole and heel of conductive rubber, conductive leather, or equivalent material, fabricated with resistance in compliance with the national fire protection association pamphlet no. 56A, 1973, inhalation anesthetics code.

(5) "Conversion" means changing the purpose for which a building, a room, or an area is used.

(6) "Corridor" means a horizontal passageway protected against a communication of fire and products of combustion from other parts of the building, which provides a safe way of egress to an approved stairway or exit to the outside.

(7) "Exit" means a continuous way of departure from the interior of a hospital or an institution building to the open air outside at the ground level. It may comprise vertical and horizontal means of travel, such as a doorway, stairway, ramp, corridor, passageway, and fire escape, including all elements necessary for the purpose of emergency escape from the building. An exit begins at a doorway, or other point of access to an exit, from which occupants may proceed to the exterior of the building with reasonable safety. All exits shall terminate directly at

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a public way or at an exit discharge. Yards, courts, open spaces, or other portions of the exit discharge shall be of a width and size required to provide all occupants with a safe access to a public way.

History: 1954 ACS 100, p. 8, Eff. July 18, 1979.

R 29.1130 Definitions; F.

Rule 130. (1) "Fire alarm system" or "fire detection system" means an approved system which will indicate a fire emergency requiring immediate action and which will alert all the occupants of a building.

(2) "Fire damper" means a damper tested by a nationally recognized testing laboratory in compliance with American society for testing and materials standard no. E-152, 1976, fire tests of door assemblies, or underwriters' laboratories, inc., standard no. 555, 1973, fire dampers, for a 1-hour fire-resistance rating, except that, where used in a tested floor-ceiling or ceiling-roof design, the damper shall be of the type tested in the assembly or approved for installation in an assembly by the testing laboratory.

(3) "Fire door assembly" means a labeled fire door and labeled frame, constructed and installed in compliance with national fire protection association pamphlet no. 80, 1977, fire doors and windows, which has a latching device, and a swinging and sliding hardware and closing device, labeled or listed in compliance with the listing and reexamination service of an approved nationally recognized testing laboratory. A fire door bearing the label of an approved testing laboratory and a fire door frame bearing the label of another approved testing laboratory each with the same fire rating classification installed in an opening requiring that fire rating classification shall be permitted unless prohibited by the testing method.

(4) "Fire-resistance rating" means the rating of a material, or assembly of materials, having a fire-resistance rating not less than that listed in American insurance association, fire-resistance ratings, 1964 (amendments 1968, 1970, 1972), or rating label or listing of underwriters' laboratories, inc., building materials directory, 1978, or certified by a nationally recognized independent testing laboratory with proper certification.

(5) "Fire-resistive construction" means that type of construction in which the structural members, including bearing and nonbearing walls, partitions, columns, floors, and roofs are of noncombustible or limited-combustible materials and have fire-resistance ratings not less than those specified in these rules.

(6) "Fixture" means an item of equipment, apparatus, or cabinetry permanently or temporarily fixed in place, necessary for the providing of treatment, services, or functions of a facility. Furnishings, which in some cases may be secured in place for functional reasons, shall not be considered as fixtures.

(7) "Flameproof" or "flameproofing" means that materials will not readily ignite and will not propagate flame under the test conditions of national fire protection association pamphlet no. 701, 1977, flame-resistant textiles and films. Flameproofed materials are usually combustible materials with the addition of some treatment or coating to modify their burning properties.

(8) "Flammable liquid" means a liquid having a flash point below 200 degrees Fahrenheit and having a vapor pressure not more than 40 pounds per square inch, absolute, at 100 degrees Fahrenheit.

History: 1954 ACS 100, p. 9, Eff. July 18, 1979.

R 29.1135 Definitions; H to N.

Rule 135. (1) "Hazardous room" means a room of a hospital, or of an institution building, housing the heating plant and incinerators, or where combus-

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tible materials, flammable liquids, gases, or dangerous chemicals are used or stored.

(2) "Heating plant room" means the room housing any fuel-fired equipment used to heat buildings.

(3) "Home for the aged" means a privately or publicly operated institution licensed by the state of Michigan as a home for the aged.

(4) "Hospital" means an establishment offering inpatient services and facilities to 4 or more nonrelated individuals requiring diagnosis, treatment, or care for a period of more than 24 hours, or providing for the convalescence, boarding, reception care, or curative treatment of 4 or more sick, wounded, or injured persons.

(5) "Institution" means a nursing home, home for the aged, a long-term care facility of a hospital, or an establishment for the detention, segregation, or curative treatment of 4 or more mentally ill or mentally retarded persons, except outpatient family care homes as defined by the Michigan department of mental health.

(6) "Limited-combustible" means a material, not complying with the definition of noncombustible material, which, in the form in which it is used, has a potential heat value not exceeding 3,500 British thermal units per pound, and complies with subdivision (a) or (b). Materials subject to increase in combustibility or flame spread rating beyond the limits herein established through the effects of age, moisture, or other atmospheric conditions shall be considered combustible.

(a) The material has a structural base of noncombustible material, with a surfacing not exceeding a thickness of ⅛ inch, which has a fire hazard classification of class A, in compliance with R 29.1243.

(b) The material is, in the form and thickness used, other than as described in subrule (a), having neither a fire hazard classification greater than class A nor evidence of continued progressive combustion and of such composition that surfaces that would be exposed by cutting through the material on any plane would have neither a fire hazard classification greater than class A nor evidence of continued progressive combustion.

(7) "May" means permissive within the intent of these rules.

(8) "Noncombustible" means a material, no part of which will ignite and burn when subjected to a fire. A material which liberates flammable gas when heated to a temperature of 1,380 degrees Fahrenheit for 5 minutes is not considered noncombustible.

(9) "Nurses station open to a corridor" means an area open to the corridor for the purpose of control and supervision of patients by the nursing staff.

(10) "Nursing home" means a privately or publicly operated institution, licensed by the state of Michigan as a nursing home.

History: 1954 ACS 100, p. 10, Eff. July 18, 1979.

R 29.1140 Definitions; O, P.

Rule 140. (1) "Owner" means a trustee, board of trustees, a lease-holder, or a person having a freehold interest in the property, but a mortgagee shall not be deemed an owner.

(2) "Panic hardware" means a device which causes the door latch to release when a force of 15 pounds is applied in the direction of egress to a bar or panel extending not less than half of the width of the door and at a height greater than 30 inches but less than 44 inches above the floor.

(3) "Patient" means a person under treatment or care in a hospital or an institution on a 24-hour basis.

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(4) "Patient-occupied room" means a room used for sleeping, care, and other activities of a patient.

(5) "Plenum" means an air compartment or chamber to which 1 or more ducts are connected or which is part of an air distribution system.

History: 1954 ACS 100, p. 10, Eff. July 18, 1979.

R 29.1145 Definitions; R to W.

Rule 145. (1) "Remodeling" means alteration, installation, or other work provided for in the applicable parts of these rules.

(2) "Resident" means a person residing in a home for the aged, privately or publicly operated, wherein the resident status shall be in compliance with R 29.1135(3).

(3) "Smoke detection system" means an automatic system indicating the presence of an abnormal smoke density in a space or an area consisting of components approved and listed by underwriters' laboratories, inc., fire protection equipment directory, 1978, and installed in compliance with national fire protection association pamphlet no. 72D, 1975, proprietary protective signaling systems.

(4) "Special care unit" means a grouping of rooms or cubicles into a unit or area open to a central core area, where the unit is designated for patient service or care of the same nature throughout and when an attendant is on duty at a location in view of all of the rooms or cubicles during any occupancy.

(5) "Stairway" or "stair," open or enclosed, means a series of steps, or a flight of steps, and the necessary landing and platform for passing from 1 level to another.

(6) "Storage" means a building, a room, or an area where materials, supplies, or equipment are kept on a continuing basis.

(7) "Story" means that part of a building between a floor and the floor or roof next above.

(8) "Wired glass" means glass not less than ¼-inch thick, reinforced with wire mesh, no. 24 gauge or heavier, with spacing not greater than 1 inch square.

History: 1954 ACS 100, p. 10, Eff. July 18, 1979.

R 29.1150 Rescission.

Rule 150. The following rules are rescinded:

(a) The rules entitled "Hospitals and Institutions," being R 28.3051 to R 28.3094 of the Michigan Administrative Code and appearing on pages 1377 to 1398 of the 1960 Annual Supplement to the Code.

(b) The rules entitled "Homes for the Aged and Nursing Homes," being R 28.3401 to R 28.3466.3 of the Michigan Administrative Code and appearing on pages 3038 to 3072 of the 1964-65 Annual Supplements to the Code.

History: 1954 ACS 100, p. 11, Eff. July 18, 1979.

PART 2. NEW HOSPITALS AND INSTITUTIONS

R 29.1201 Applicability.

Rule 201. (1) Except as provided in part 3, this part applies to construction of a new hospital or institution, as well as to additions, reconstruction, and remodeling of an existing hospital or institution.

(2) This part also applies to the conversion of an existing building into a hospital or institution.

History: 1954 ACS 100, p. 11, Eff. July 18, 1979.

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R 29.1202 General safety.

Rule 202. A hospital or an institution shall be constructed, arranged, equipped, maintained, and operated so as to avoid undue danger to the lives and safety of its occupants resulting from fire, smoke, fumes, or the resulting panic during such time as is reasonably necessary for escape or removal to an area of refuge from the fire, or because of other emergencies associated with fire.

History: 1954 ACS 100, p. 11, Eff. July 18, 1979.

R 29.1203 Plans and specifications; approval.

Rule 203. (1) Plans and specifications shall be submitted to the state fire marshal for all projects involving construction, reconstruction, conversion, remodeling, alterations, or permanent renovations if the cost of the project is such that the seal of an architect or engineer is required by R 29.1204.

(2) All projects shall comply with the other requirements of these rules, whether or not they are addressed by subrule (1) and R 29.1204.

(3) A hospital or an institution project, let out for contract bidding on the basis of preliminary plan clearance, but before final plans and specifications have been approved, shall be let out with the firm understanding that required approval of the project has not been obtained.

(4) If an approved designated occupancy is changed during planning or construction, or after occupancy, to another occupancy, all fire protection requirements for the new occupancy shall be complied with.

(5) Preliminary plan approval given before the effective date of these rules shall terminate 6 months after the effective date of these rules if construction has not started. An approval extension may be granted, however, in a specific instance, upon written request to the state fire marshal.

History: 1954 ACS 100, p. 11, Eff. July 18, 1979.

R 29.1204 Architects and engineers.

Rule 204. Health care facility construction, reconstruction, conversion, remodeling, alterations, or permanent renovations shall bear the seal of an architect or engineer if required by Act No. 240 of the Public Acts of 1937, as amended, being §338.551 et seq. of the Michigan Compiled Laws, an act for architects, professional engineers, and land surveyors.

History: 1954 ACS 100, p. 11, Eff. July 18, 1979.

R 29.1205 First inspection, final inspection, and occupancy.

Rule 205. (1) A newly constructed hospital or institution, as well as a building being reconstructed, converted, remodeled, altered, or added to, shall not be occupied, in whole or in part, without the written approval of the state fire marshal.

(2) Notice for the first inspection shall be given when the building is framed and before lathing, plastering, installation of ceilings and ceiling assemblies, or concealment of roof or floor joists.

(3) When the construction, reconstruction, conversion, remodeling, or alteration of, or addition to, a hospital or an institution has been completed, but before occupancy, the owner shall notify the state fire marshal, who shall make an inspection to determine compliance with these rules.

(4) If the inspection by the state fire marshal finds the building or addition to be in compliance with these rules, written approval for the use and occupancy of the building or addition shall be given.

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(5) Nothing in these rules shall waive compliance with a local ordinance or requirement.

History: 1954 ACS 100, p. 12, Eff. July 18, 1979.

R 29.1206 Plans for addition, reconstruction, conversion, remodeling, and alteration.

Rule 206. Plans for the reconstruction, conversion, remodeling, or alteration of, or an addition to, an existing hospital or institution shall include parts of the building being changed, showing existing exits, existing type of construction, and room occupancies which may be affected by the changes.

History: 1954 ACS 100, p. 12, Eff. July 18, 1979.

R 29.1207 Occupancy during construction and repair.

Rule 207. (1) A hospital or an institution under construction shall not be occupied, in whole or in part, until all exit facilities required for the part occupied are completed and approved for use, and until the occupied part is separated from the part under construction by a wall having a 1-hour fire-resistance rating.

(2) A hospital or an institution shall not be occupied during conversion, repairs, or alteration unless existing exits and fire protection equipment are retained, or, in lieu thereof, unless other measures are taken which provide equivalent safety as approved by the enforcing agency.

(3) Flammable or explosive substances, or equipment for repair, conversion, or alteration, shall not be introduced in or on a hospital or institution building of normally low or ordinary hazard classification while the building is occupied, unless the conditions of use and safeguards provided offset any danger or handicap to egress, as approved by the enforcing agency.

(4) A required exit, way of approach thereto, and way of travel from the exit to the street or open space shall be maintained free of all obstructions or impediments as to be available for full, instant use, as required by R 29.1214.

(5) A required automatic sprinkler system, fire detection and alarm system, exit lighting, fire door, and other items of equipment required in the occupied section shall be maintained in proper operating condition.

History: 1954 ACS 100, p. 12, Eff. July 18, 1979.

R 29.1208 Restricted locations.

Rule 208. A hospital or an institution shall not be located less than 300 feet from an aboveground storage tank containing flammable liquids used in connection with a bulk plant, marine terminal, aircraft refueling facility, the bottling plant of a liquefied petroleum gas installation, or other facility of similar use.

History: 1954 ACS 100, p. 12, Eff. July 18, 1979.

R 29.1209 Construction generally.

Rule 209. (1) Except as provided in subrule (2), a hospital or an institution, or addition, or alteration, or a building converted to a hospital or institution, shall be of 3-hour fire-resistive construction, in compliance with national fire protection association pamphlet no. 220, 1975, types of building construction, except that exterior trim in the form of a fascia or soffit may be of impregnated wood, if it is labeled class A by underwriters' laboratories, inc., in compliance with R 29.1243(1), and is separated from any part of the building interior by construction having a 1-hour fire-resistance rating.

(2) A hospital or an institution, or addition or alteration, or a building converted to a hospital or an institution, may be of 1-hour protected ordinary construction

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(solid masonry exterior walls, wood joist, studding, and unprotected steel) if it is not more than 1 story in height, without a basement, and if the entire building is protected by an automatic sprinkler system.

(3) Unless the addition has a sprinkler system, an addition to a building that is required to have a sprinkler system shall be separated from the building by 2-hour fire walls and shall have a 1¼-hour underwriters' laboratories, inc., B-labeled or factory mutual labeled fire door assembly.

(4) Forming materials, left in place as a part of a permanent structure, shall be noncombustible or limited-combustible. In no case shall such material be more hazardous than class A, in compliance with R 29.1243(1).

(5) Exterior and interior walls and partitions, including an attic or an open structural cavity, shall be fire-stopped at the juncture of floors and roof construction to prevent the spread of flame or smoke from 1 level to another in an occupied or unoccupied area. Continuous fire-resistive shafts may be excluded, and the material shall not be of less fire-resistance rating than required for the particular type of construction.

(6) If a portion of a building, or an attached building, not used for hospital or institution purposes, is not under hospital or institution control, this rule does not apply to that portion of the building or the attached building if it is separated by unpierced construction having a 4-hour fire-resistance rating. If the portion of the building or attached building not used for hospital or institution purposes is under the control of the hospital or institution, openings are permitted, but shall be protected in compliance with national fire protection association pamphlet no. 80A, 1975, protection from exposure fires. A parking ramp shall have an unpierced separation.

(7) All areas and spaces within a hospital or an institution shall be in compliance with these rules, except that corridor construction is exempt if the area is separated in compliance with R 29.1223(2) and is not required for patient or resident exiting.

(8) A patient or resident bedroom shall not be located in a basement or cellar.

(9) A hospital or an institution sleeping room shall have an outside window or outside door arranged and located so that it can be opened from the inside without the use of tools or keys, so as to permit the venting of products of combustion and to permit an occupant to have direct access to fresh air in case of emergency. The sill height shall not be more than 36 inches above the floor. Rooms intended for occupancy of less than 24 hours, such as those housing obstetrical labor beds, recovery beds, observation beds in the emergency department, and newborn nurseries, need not comply with this rule. One outside window may serve several individual patient beds in a special care unit. Buildings designed with an approved engineered smoke control system need not comply with this requirement.

History: 1954 ACS 100, p. 12, Eff. July 18, 1979.

R 29.1210 Fire-resistive assemblies, doors, and frames.

Rule 210. An assembly required to be fire-resistive shall be in compliance with fire ratings established by the American insurance association, fire-resistance ratings, 1964 (amendments 1968, 1970, 1972), or with the underwriters' laboratories, inc., building materials directory, 1978, or listed by a nationally recognized independent testing agency. Fire door assemblies shall be tested in compliance with national fire protection association pamphlet no. 252, 1976, methods of fire tests of door assemblies, and shall bear the label of a nationally recognized independent testing agency that provides inspection services.

History: 1954 ACS 100, p. 13, Eff. July 18, 1979.

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R 29.1211 Roof, ceiling, and attic construction.

Rule 211. (1) The ceiling-floor and ceiling-roof assemblies installed to meet the required fire-resistance rating shall be installed as tested and may only have openings to accommodate ducts or recessed electrical fixtures, as indicated in the tested design. A duct opening shall be protected as designated in the tested assembly. An opening in a ceiling for an electrical box for a surface mounted or suspended fixture shall not be more than 16 square inches for each 90 square feet of ceiling area.

(2) An attic, an open structural space above a ceiling, and a vertical shaft shall be fire-stopped, or separated from an adjacent space, with walls of the same rating as required for the occupied space below, extending from the ceiling level to structural slab above.

(3) Roofing shall be of spark-resistant material.

History: 1954 ACS 100, p. 13, Eff. July 18, 1979.

R 29.1212 Capacity.

Rule 212. (1) The capacity of a hospital or an institution shall be determined by assigning not less than the number of square feet of floor area in a patient- or resident-occupied room than is permitted per patient or resident bed by the department of public health.

(2) In a patient-occupied room of 4 or more beds, there shall be provided a clear space of not less than 3 feet in width from 1 side of each bed, which shall be adjacent to an aisle of not less than 5 feet in width and maintained free of any obstruction leading to a room exit or exits.

History: 1954 ACS 100, p. 14, Eff. July 18, 1979.

R 29.1213 Other occupancy.

Rule 213. (1) A hospital or an institution occupancy shall not be permitted in a building containing an occupancy which is not within the immediate control of the management, or which is not incidental to the operation of the hospital or institution.

(2) A gift shop shall be permitted in a hospital or an institution if it is separated from the remainder of the building by construction having a 1-hour fire-resistance rating and is protected by an automatic sprinkler system. One-fourth inch wired glass in steel frames, with not more than 1,296 square inches per frame, with no dimension of glass more than 54 inches, shall be approved. Doors shall bear the label of a nationally recognized testing laboratory for not less than ¾-hour fire-resistance rating.

History: 1954 ACS 100, p. 14, Eff. July 18, 1979.

R 29.1214 Exits and other safeguards.

Rule 214. A hospital or an institution shall be provided with exits sufficient to permit the prompt escape or removal of occupants from buildings, or the removal of occupants to areas of refuge within buildings, in case of fire or other conditions dangerous to life associated with fire. Exits shall be designed so that reliance for safety to life in case of fire or other emergency does not depend solely on any single safeguard.

History: 1954 ACS 100, p. 14, Eff. July 18, 1979.

R 29.1215 Exits generally.

Rule 215. (1) A patient- or resident-occupied room shall have 1 doorway open directly to the outside, or open to an approved corridor which has 2 separate and

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independent means of egress leading to an approved exit, stairway, or means of egress leading directly to the outside at grade; except 1 room on each side of the end of a corridor shall not have more than 2 patients in a room or 1 room at the end of a corridor shall not have more than 4 patients. A door at the end of a corridor, as provided for by this rule, shall not be more remote than 15 feet from an approved exit stairway or means of egress directly to the outside at grade.

(2) A patient-occupied room located between exits shall be of such dimensions that no part of the room is more than 30 feet to the room-corridor exit door. A patient-occupied room shall not have more than 6 beds unless an additional exit is provided, and no point in the room shall be more than 30 feet from an exit. If a patient-occupied room is maintained for ambulatory patients only, and no part of the room is more than 30 feet to a room-corridor exit door, 8 beds may be permitted without a secondary means of egress from the patient-occupied room. There shall be a clear space of 3 feet in width from 1 side of a bed, which space shall be adjacent to an aisle not less than 5 feet in width and maintained free of obstruction leading to a room exit.

History: 1954 ACS 100, p. 14, Eff. July 18, 1979.

R 29.1216 Exits; number.

Rule 216. (1) Each floor or story of a building shall have not less than 2 separate and independent means of egress leading to the outside at grade.

(2) The capacity of a stair exit shall be based on 22 persons per unit of exit.

(3) The capacity for exit travel without stairs shall be based on 30 persons per unit of exit.

(4) A unit of exit width shall be 22 inches.

(5) The occupant load for which means of egress shall be provided for any floor shall be the maximum number of persons intended to occupy that floor, but not less than 1 person for each 120 square feet gross floor area in health care nursing units and not less than 1 person for each 240 square feet of gross floor area of inpatient health care treatment and diagnostic areas. Gross floor areas shall be measured within the exterior building walls with no deductions.

History: 1954 ACS 100, p. 14, Eff. July 18, 1979.

R 29.1217 Exits; special care units.

Rule 217. A special care unit shall be considered as 1 room if the rooms within the unit meet the following requirements:

(a) The travel distance between any room door within the unit used as an exit access and an approved exit shall not exceed 100 feet and that the distance from any point within a room and the approved exit shall not exceed 150 feet. The distance from any point in a room and the exit access door of that room shall not exceed 50 feet.

(b) The area is not a required exit for another occupancy.

(c) The unit complies with R 29.1223(2), except that corridor walls within the unit need not comply with R 29.1223(2).

(d) There is direct supervision of all occupied rooms or spaces within the unit by competent persons when the room or space is occupied.

(e) A hazardous room within the unit has not less than 1-hour fire-resistive construction and protection, as required by the applicable rules.

History: 1954 ACS 100, p. 15, Eff. July 18, 1979.

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R 29.1218 Distance to exits.

Rule 218. (1) Exits shall be arranged so that it shall not be necessary to travel more than 100 feet to exit from the door of a patient- or resident-occupied room to reach the nearest approved means of egress from that story.

(2) In a hospital or an institution without complete automatic sprinkler protection, travel distance from a door of a room, other than a room for patient or resident occupancy, shall not be more than 150 feet to reach the nearest approved means of egress from that floor.

(3) In a hospital or an institution with complete automatic sprinkler protection, the travel distance from a door of a room may be increased by 50 feet.

History: 1954 ACS 100, p. 15, Eff. July 18, 1979.

R 29.1219 Exit visibility and obstructions.

Rule 219. (1) An exit shall be clearly visible, or the route to reach it shall be conspicuously indicated, in such a manner that every occupant will readily know the direction of escape from any point in the hospital or institution building. Each path of escape, in its entirety, shall be arranged or marked so that the way to an exit, as defined in R 29.1125(7), is unmistakable. A doorway or passageway not constituting an exit or way to reach an exit, that may be mistaken for an exit, shall be arranged or marked to minimize possible confusion with an exit, thus eliminating the danger of persons endeavoring to escape through that doorway or passageway and finding themselves trapped in a dead end space from which there is no exit.

(2) Ways to exit access and doors leading to exits shall be designed and arranged to be clearly recognizable as such. Hanging draperies shall not be placed over an exit door or otherwise located to conceal or obscure an exit. A mirror shall not be placed in, on, or adjacent to an exit in a manner which might confuse the direction of the exit.

(3) An exit, a way of approach thereto, and a way of travel from the exit to a street or open space shall be maintained free of all obstructions or impediments so that it is available for full, instant use.

(4) Adequate lighting facilities shall be provided for a corridor, a stairway, and an egress passage to a value of not less than 1.0 foot candle measured at the floor.

History: 1954 ACS 100, p. 15, Eff. July 18, 1979.

R 29.1220 Exit lights.

Rule 220. (1) An exit shall be marked by means of an approved lighted exit sign having letters not less than 6 inches high on a background of contrasting color, with strokes not less than ¾-inch wide, and shall be installed to be legible from the direction of travel thereto. Where a doorway and sign are not readily discernible from any part of a main corridor, an adequate number of additional approved lighted directional signs shall be provided, with an arrow pointing in the direction of the exit.

(2) An approved electrically lighted exit sign shall be on a separate circuit placed ahead of the main disconnecting means and shall be supplied through the emergency panel. An approved self-energized exit sign will be accepted as an alternative to the above.

History: 1954 ACS 100, p. 15, Eff. July 18, 1979.

R 29.1221 Exit and corridor dimensions.

Rule 221. (1) An exit, or a way of exit access, from a patient- or resident-occupied room which leads to an egress stairway, and thence to the outside, or

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which leads to the outside from the first story, shall not be less than 8 feet in width. This width requirement does not apply to a building used solely for ambulatory patients where the width shall not be less than 6 feet. Corridors and ramps in adjunct areas, which are not intended for the housing, treatment, or use of inpatients, may be a minimum of 6 feet in clear, unobstructed width.

(2) An exit, or way of exit access, considered as an approved means of egress, shall not have a ceiling height of less than 90 inches.

History: 1954 ACS 100, p. 16, Eff. July 18, 1979.

R 29.1222 Exit doors.

Rule 222. (1) A doorway which is a part of a means of egress shall be at floor level for a distance on each side of the doorway of not less than the width of the widest single leaf of the door. If the exit door discharges to the outside or to another exterior exit or exit access, the floor level outside the door may be 1 step lower than inside, but not more than 7½ inches lower.

(2) A labeled door with a 20-minute fire protection rating, or a solid bonded wood core door 1¾ inches thick with a positive latching device and reasonably smoke-tight, shall be provided on openings to an exit corridor.

(3) Fixed wired glass vision panels, installed in approved steel frames, not exceeding 720 square inches in size, shall be permitted in a solid bonded wood core 1¾-inch thick door.

(4) Louvers, whether or not protected by fusible link-operated dampers, shall not be permitted in a door opening on an exit corridor or in a required labeled door.

(5) An exit door, screen door, or storm door in a required exit shall be side-hinged, and shall swing in the direction of exit travel.

(6) A patient- or resident-occupied room door may swing into the room. If the door swings out into the corridor, however, it shall not be hung to obstruct egress passage. There shall not be any obstruction to the opening and closing of an egress door or of a door from a patient-occupied room into a corridor.

(7) A revolving door shall not be used as an exit. Where a revolving door is installed, a side-hinged door in compliance with these rules shall be installed within 15 feet of each revolving door.

(8) A door into a stairway enclosure, and a door serving other vertical openings, shall be a 1½-hour underwriters' laboratories, inc., B-labeled or factory mutual labeled fire door assembly. The door shall be hung to permit convenient manual opening and closing. The door shall be maintained in a closed position and shall have a prominent sign on each side containing the following words:

Fire Door
Keep Closed

(9) A sliding door may be used as an exterior exit if the door is capable of acting as a side-hinged door.

(10) A door used as an exit shall be designed and installed so that when a force is applied to the door on the side from which the egress is to be made, the door shall swing in the direction of exit travel from any position to the full use of the opening in which it is installed.

(11) In a hospital or institution, a door from a corridor to a stairway shall be openable from either side with the following exceptions: A door from a stairway shall be openable from the inside without the use of a key or without special knowledge or effort at all times during which the building or area served is occupied, except as permitted by R 29.1229(3) to (7). A door from a stairway may be locked from the stairway side if deemed necessary to maintain sterile or

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security conditions in the hospital or institution, except that no more than 3 consecutive levels may be so locked and that signs on locked doors shall indicate that the door is locked and also the next door above and below which is unlocked. Signs shall also be placed on unlocked doors on floors adjacent to the locked level or levels which indicate which doors are locked and the next unlocked door beyond those which are locked.

History: 1954 ACS 100, p. 16, Eff. July 18, 1979.

R 29.1223 Corridors.

Rule 223. (1) Transfer grills, whether or not protected by fusible link-operated dampers, shall not be permitted in an exit corridor wall.

(2) A room or use area shall be separated from a corridor by a partition construction extending to the floor or deck above, with a 1-hour fire-resistance rating. Glass in the partition shall be permitted if it is approved wired glass installed in steel framing and stops, and if it has not more than 1,296 square inches per opening, with no dimension more than 54 inches. Exceptions to this rule are as follows:

(a) An alcove which does not infringe upon the required corridor width and which is used exclusively for stretchers and wheelchairs.

(b) A nurses' station sufficient in size for the number of patients served may be open to, and a part of, a corridor system if:

(i) It is manned 24 hours per day.

(ii) It does not reduce the required corridor width.

(iii) It contains only communication and monitoring equipment, a desk or counter, seating, and a storage space for use in charting.

(iv) Wall and ceiling interior finishes shall have a class A fire hazard classification in compliance with R 29.1243(1). The permitted desk or counter and enclosed storage space shall have materials not more hazardous than class B, in compliance with R 29.1243(1) for all exposed surfaces.

(c) A corridor may exit through a main floor lobby if the corridor entering the lobby is separated by a door with a C-labeled fire-resistance rating, and the lobby construction is equivalent to corridor construction. A 24-hour manned telephone switchboard and information center may be open to, and may be a part of, a lobby if it is in compliance with subdivision (b).

(d) A room for a patient requiring isolation may have a vestibule, for scrubbing and gowning only, between the room and the approved corridor. One-day storage of needed materials will be allowed.

(3) A corridor or stairway leading to a means of egress shall be used for circulation only.

(4) A transom or other similar opening between a room and an approved corridor is not permitted.

(5) A corridor barrier door, other than an approved smoke partition door, shall permit opening in the direction of travel to the nearest exit with normal push or pressure.

(6) A corridor barrier door, other than an approved smoke partition door, shall be in compliance with R 29.1238(9), except that a door with a C-labeled fire-resistance rating is not required.

(7) A corridor shall lead directly to the outside or to an approved stairway having direct egress to the outside through an approved exit door at a grade which gives access to a public street, except as stated above in subrule (2)(c).

(8) A door stop on a door frame may be eliminated for not more than 6 inches from the floor unless the frame is a labeled frame.

History: 1954 ACS 100, p. 17, Eff. July 18, 1979.

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R 29.1224 Wall openings.

Rule 224. An opening in a wall required to be of 1-hour fire-resistive construction shall be permitted under the following conditions:

(a) A penetration of the corridor-room separation to permit a means of supplying patient needs through an opening in a corridor wall to an enclosure in a patient bedroom shall be permitted if:

(i) The corridor-room separation is retained.

(ii) The opening in the corridor wall is protected by a 1-hour labeled fire door assembly having a positive latching device and closing device. A closing device, equipped with a smoke detector to hold the door open at 90 degrees while the unit is being serviced, shall be permitted.

(iii) The entire unit shall be constructed of materials which provide not less than a class B fire hazard classification.

(iv) The gross interior volume of a unit shall be not more than 30 cubic feet, with no inner compartment of more than 12 cubic feet.

(v) Units of 30 cubic feet or more for multipatient bedrooms shall be separated from each other by limited-combustible material.

(vi) Any air handling connected to these units shall be in continuous metal ducts.

(b) An opening to serve information or dispensing purposes shall be permitted if:

(i) The opening is protected with a 1-hour fire door assembly.

(ii) The door is maintained in a closed position when the room is unoccupied.

(iii) The door is held open by an approved smoke detection device.

(c) An x-ray film pass through opening shall be permitted if:

(i) The opening does not exceed 24 inches by 24 inches.

(ii) The entire unit shall be of 16-gauge single wall or 18-gauge double wall steel construction.

(iii) The unit doors are to be interlocked so that only 1 door can be opened at a time.

(iv) The penetration does not occur in a hazardous room wall or a smoke partition.

History: 1954 ACS 100, p. 17, Eff. July 18, 1979.

R 29.1225 Nonstopped door frame for patient toilet room door.

Rule 225. A nonstopped door frame shall be permitted for a patient toilet room door which enters upon a common use corridor, subject to all of the following:

(a) The room is not more than 100 square feet in area.

(b) Walls, ceiling, floor, furnishings, and fixtures are of class A materials.

(c) The room is provided with a mechanical exhaust which prevents the movement of air into the corridor.

(d) Storage is not permitted in the room.

History: 1954 ACS 100, p. 18, Eff. July 18, 1979.

R 29.1227 Exit doors operated by power.

Rule 227. Where a required exit door is operated by power, such as a door with a photoelectric-actuated mechanism to open the door upon approach of a person or a door with power-assisted manual operation, the door, in case of power or mechanical failure, shall be manually openable to permit exit travel, or closeable where necessary to safeguard the means of egress. A door operated by power shall not be counted as a required exit unless it swings by mechanical or manual means in the direction of exit travel. A door operated by power shall not be

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permitted to eliminate the necessity for positive latching hardware on openings where positive latching hardware is required.

History: 1954 ACS 100, p. 18, Eff. July 18, 1979.

R 29.1228 Exit door dimensions.

Rule 228. (1) A doorway from a patient- or resident-occupied room, and a door forming a part of an approved exit access, shall not be less than 78 inches in height.

(2) A door from a patient-occupied room, and a door forming a part of an approved means of egress for a bed patient, shall not be less than 44 inches in width, except that a room in an institution used for ambulatory patients or residents only, as well as a hospital room used for newborn, may be equipped with a 36-inch wide door.

History: 1954 ACS 100, p. 18, Eff. July 18, 1979.

R 29.1229 Exit door hardware.

Rule 229. (1) A door opening to a corridor, or a door opening into a hazardous location, shall be equipped with positive latching hardware which insures opening the door by a single motion, such as turning a knob or by pressure applied to a latch by a person of normal strength.

(2) A corridor door provided as an exit giving egress directly to the outside, and a door required for a room for 50 or more occupants shall be equipped with approved panic hardware listed in the underwriters' laboratories, inc., accident, automotive and burglary protection equipment directory, 1977, except as provided in R 29.1222.

(3) The use of hardware which is locking against egress or the use of a hook and eye, bolt, bar, or similar device shall not be permitted on the door of a required exit. In a psychiatric area of a hospital, an institution, and a county medical care facility, where a door may need to be locked for security reasons, all personnel on duty shall be required to carry keys to unlock the exit doors and detention rooms in their duty area, or the locked doors shall be unlocked by approved fail-safe electronic releasing devices.

(4) In a nursing home:

(a) A door permitted to be locked with electronic fail-safe releasing features shall include only stairway doors and exterior exit doors.

(b) In a section of the home permitted to lock doors with electric-releasing devices, each room with a door opening onto an exit corridor shall have a smoke detection device inside the room door.

(c) A section of the home shall be permitted to maintain locked doors, provided the locks are electrically released, permitting free egress from either direction, and provided the releasing mechanism is activated by the following:

(i) The activation of any smoke detection device.

(ii) The activation of an automatic extinguishing system.

(iii) The activation of the fire alarm system located to protect the secured section.

(iv) The activation of an independent manually operated system at each nursing station.

(v) The activation by a power failure.

(vi) Any lock shall be released by a key.

(5) Components of an electric releasing device, the latching hardware, and detection and alarm system shall be underwriters' laboratories, inc., listed, and installed in compliance with the applicable national fire protection association alarm and special extinguishing systems.

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(6) An exit door may be equipped with additional approved hardware.

(7) Products of combustion detection or other features required to permit locking doors shall not waive other requirements of these rules.

(8) Fire doors used in pairs without a mullion shall be equipped with an astragal and a synchronizing closing device. For an exception to the requirement, see R 29.1238.

(9) Fire doors used in pairs without a mullion in an opening to a room, when not required as an exit door, may have the normally inactive leaf held closed by a deadlocking device, if there is an astragal and the active leaf is equipped with a closer.

(10) An astragal shall be of 10-gauge steel, securely attached in place, and shall project ¾ inch.

(11) All doors that are required to be labeled shall have hardware labeled or listed for use on the labeled door.

History: 1954 ACS 100, p. 18, Eff. July 18, 1979.

R 29.1230 Fire door assembly resistance ratings.

Rule 230. (1) An underwriters' laboratories, inc., or factory mutual labeled fire door assembly without a hold-open device shall be provided as follows:

(a) An approved 1½-hour labeled fire door assembly shall be provided in an opening into a 2-hour fire separation.

(b) An approved 1-hour labeled fire door assembly shall be provided in an opening into a 1-hour fire separation, except as provided for in R 29.1222(2).

(2) An approved ¾-hour labeled fire door assembly shall be provided in an opening which constitutes a part of a smoke barrier. See R 29.1238(4) to (6) and R 29.1266.

History: 1954 ACS 100, p. 19, Eff. July 18, 1979.

R 29.1231 Fire door hold-open devices.

Rule 231. (1) A hold-open device, equipped with a smoke detector, or heat detector to hold the door open at 90 degrees, shall be permitted on a fire door to a room used exclusively for storage of a linen cart, a nurse server, and a small janitor closet.

(2) A fire door shall not be equipped with a hold-open device except one in compliance with subrule (1) and R 29.1224(a)(ii) and R 29.1230(2).

History: 1954 ACS 100, p. 19, Eff. July 18, 1979.

R 29.1232 Stairway locations.

Rule 232. (1) A required exit stairway shall be located on outside walls and be continuous to the outside at grade. An exit from a floor above or below the first floor shall be by an enclosed stairway. Two stairways with a common termination point or intermediate landing are considered as a single stairway.

(2) A stairway or exit shall be located so the distance of travel from any room is not more than that specified in R 29.1218, and, with respect to corridors, passages, and rooms, there shall be no dead ends, except rooms in compliance with R 29.1215(1). Rooms other than those listed in R 29.1215 are exempt from this requirement. This exemption permits a dead end corridor where no regular patient or resident occupancy is provided. A door in such a dead end area shall not be more than 50 feet from a point in an exit corridor which has access to exits in different directions.

History: 1954 ACS 100, p. 19, Eff. July 18, 1979.

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R 29.1233 Stairway enclosures.

Rule 233. (1) An existing building having not more than 2 levels, where neither level is a basement, and where both levels exit at grade, and where the vertical rise between levels is not more than 4 feet, shall be considered as being 1 story, and the installation of an enclosure between the floor levels shall not be required.

(2) A stairway shall be separated from the remainder of the building by 2-hour fire-resistive construction.

(3) In new construction, a reconstruction, a conversion, a remodeling, or an alteration or addition, a room door or opening into a stairway, other than a corridor door, shall not be permitted.

History: 1954 ACS 100, p. 20, Eff. July 18, 1979.

R 29.1234 Stairway dimensions.

Rule 234. (1) A stairway forming an approved means of egress shall be not less than 44 inches wide, and shall be clear of obstructions, except handrails, which shall not project more than 3½ inches on each side. A riser shall not be more than 7½ inches high, and a tread shall be not less than 10 inches wide from front to rear, exclusive of nosing or projection. The sum of the 2 risers and 1 tread shall equal not less than 24 inches, but not more than 25 inches. The height between platforms or landings shall be not more than 8 feet.

(2) A stairway forming an approved means of egress and consisting of 2 or more steps, which, in changing direction, does so by a variance in the width along each tread, shall not be permitted. This shall not prohibit a stairway, with treads of uniform width throughout, which changes direction by the use of an intermediate landing or a platform.

(3) A required stairway shall be continuous to grade and shall exit at grade, without requiring a person to leave the stairway at any time to an exposure in the building in order to reach the grade exit.

(4) A required stairway shall not require a descent below grade prior to ascending to the grade exit. An exit stairway that continues to the basement or other lower stories shall be interrupted at the story of discharge by a partition, door, or other effective means which make clear the direction of egress.

History: 1954 ACS 100, p. 20, Eff. July 18, 1979.

R 29.1235 Stairway landings.

Rule 235. (1) An exterior landing shall not be more than 1 riser above grade, except where provided with protective handrails in compliance with R 29.1236, and shall have a minimum size of 8 feet by 8 feet. A landing shall be not more than 4 feet above the natural grade without being enclosed.

(2) A stair shall not exit below grade.

History: 1954 ACS 100, p. 20, Eff. July 18, 1979.

R 29.1236 Handrails and guards.

Rule 236. (1) A stairway forming an approved means of egress shall have suitable handrails on each side.

(2) A handrail on a stairway shall be not less than 30 inches nor more than 34 inches above the upper surface of the tread, measured vertically to the top of the rail, from a point on the tread 1 inch back from the leading edge.

(3) A handrail shall provide a clearance of not less than 1½ inches between the handrail and the wall to which it is fastened. A handrail shall be supported to withstand a load of not less than 250 pounds, applied at any point downward or horizontally.

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(4) A handrail shall permit continuous sliding of a hand on the rail.

(5) A stairway required to be more than 88 inches wide shall have intermediate handrails dividing the stairway into portions not more than 88 inches wide, except that, on monumental outside stairs, 2 handrails may be permitted.

(6) A guard shall be provided on each open side of an inside stairway and at landings, if the stairway reverses direction at intermediate landings and the horizontal distance between successive flights is 1 foot or more. The guard shall be 42 inches high and constructed in such a manner that the area of openings has no dimension more than 10 inches and the bottom of the guard is not more than 10 inches above the stair tread or landing floor.

History: 1954 ACS 100, p. 20, Eff. July 18, 1979.

R 29.1237 Ramps.

Rule 237. A ramp may be used as a component in a means of egress if the ramp conforms to width and other requirements for its intended use, such as a corridor or other means of egress. A ramp shall have a slope not greater than 1 foot in 12 feet, 8⅓%.

History: 1954 ACS 100, p. 21, Eff. July 18, 1979.

R 29.1238 Smoke partitions.

Rule 238. (1) A floor, regardless of size, used by patients, by residents, or for 50 or more occupants, shall be divided into 2 or more sections by a smoke partition having a 1-hour fire-resistance rating. The partition shall be located to provide an area of refuge on either side that is served by an approved stair or exterior exit.

(2) A smoke partition shall contain no glass except that permitted in the labeled doors.

(3) A smoke partition shall extend the full width of the building and shall be continuous from the floor to the underside of the floor or deck above, thereby including continuity through all concealed spaces.

(4) A door located in a smoke partition shall be underwriters' laboratories, inc., C-labeled, or factory mutual ¾-hour labeled fire door installed in a labeled frame.

(5) A smoke partition door, across corridors, may be held in the open position, with approved electrical hold-open devices, under the following conditions:

(a) The door is manually operable at all times.

(b) The door closes by actuation of the fire alarm system.

(c) The door closes by actuation of the automatic sprinkler system when the building is completely sprinklered.

(d) The door closes by actuation of a complete smoke detection system. Smoke detectors shall be located in compliance with national fire protection association pamphlet no. 80, 1977, fire doors and windows, or a detector installed in the manner in which it was tested and approved shall be permitted.

(6) Actuation of a device required by subrule (5)(b), (c), and (d) shall close all smoke partition doors within the smoke detection area.

(7) A smoke partition shall be located to create an area of refuge of not more than 22,500 square feet, with no dimension more than 150 feet.

(8) Corridor travel distance from the door of any occupied room to either a smoke partition, an exterior exit, or an approved enclosed stairwell which exits directly to the outside at grade shall not be more than 75 feet.

(9) Smoke partition doors across a corridor shall be a pair of swinging doors, each to swing in a direction opposite from the other and each to swing in the direction of normal travel. Each door may be equipped with a vision panel. Each

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door shall be provided with a door stop and a steel astragal, and shall be an approved fire door installed in a labeled frame. Positive latching is not required. The width of each door in a smoke partition shall be 44 inches in a hospital and nursing home, and 32 inches in a home for the aged. In an institution, other than a nursing home or a home for the aged, the door width in a smoke partition shall be 44 inches in a facility for nonambulatory patients and 32 inches in a facility for ambulatory patients only.

(10) Not less than 30 net square feet per occupant for the total of bed or litter patients shall be provided on each side of the smoke partition. On other stories not housing bed or litter patients, not less than 6 net square feet per occupant shall be provided on each side of the smoke partition for the total number of occupants in adjoining compartments.

History: 1954 ACS 100, p. 21, Eff. July 18, 1979.

R 29.1239 Elevators and dumbwaiters.

Rule 239. (1) An elevator shall not constitute a required means of exit.

(2) An elevator or dumbwaiter enclosure shall be constructed of materials having a 2-hour fire-resistance rating.

(3) A passenger door opening in an elevator enclosure and an access door opening in a dumbwaiter enclosure shall be protected by a 1½-hour underwriters' laboratories, inc., B-labeled or factory mutual labeled fire door assembly. Other openings in an elevator or dumbwaiter enclosure shall not be permitted except for venting in compliance with the requirements of the Michigan elevator division.

History: 1954 ACS 100, p. 21, Eff. July 18, 1979.

R 29.1240 Rubbish handling and incinerators.

Rule 240. (1) Rubbish handling and incinerators shall be in compliance with national fire protection association pamphlet no. 82, 1977, incinerators, rubbish handling, as applicable to a hospital or an institution.

(2) Rubbish accumulation shall not be permitted in a heating plant room. See also R 29.1255.

(3) An incinerator shall not be flue-fed or chute-fed from a floor above.

(4) A rubbish chute or refuse room shall be in compliance with national fire protection association pamphlet no. 82, 1977, incinerators, rubbish handling, as the pamphlet applies to industrial-type incinerators, as applicable to a hospital or an institution.

(5) A feed door for an incinerator or rubbish chute shall be located in a room sized to accommodate carts and materials necessary to the feeding of the chute and shall not expose a corridor or a passageway. The room shall be separated from the remainder of the building by 1-hour fire-resistive construction and the room shall be protected by an automatic sprinkler system.

(6) An automatic sprinkler head shall be installed at the top of a rubbish chute and within the chute at alternate floor levels in a building of more than 2 stories.

(7) A rubbish chute shall empty into a room separated from the remainder of the building by construction having a 1-hour fire-resistance rating and the room shall be protected by an automatic sprinkler.

History: 1954 ACS 100, p. 22, Eff. July 18, 1979.

R 29.1242 Linen (laundry) handling.

Rule 242. (1) Linen chutes or pneumatic linen handling systems shall be enclosed on all stories above the collection or laundry facility with a continuous enclosure constructed of materials which are fire-resistive and extending from the

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ceiling of the collection or laundry room to or through the roof so as to retain the integrity of the fire separations as required by the applicable building code provisions. If the shaft enclosing the linen chute or pneumatic linen handling system terminates within the building, it shall be capped with a material which shall give the shaft a 2-hour fire-resistance rating. If the shaft extends through the roof of the building it shall extend full size 4 feet above the roof and be open to the atmosphere. The walls of the enclosure shall have a fire-resistance rating of 2 hours. Chutes constructed of masonry walls having a fire-resistance rating of 2 hours shall not be required to be otherwise enclosed.

(2) Linen chutes or pneumatic linen handling systems shall terminate or discharge directly into a room separated from other parts of the building by wall, partition, floor, and floor-ceiling assemblies having a fire-resistance rating of 1 hour. Openings to such rooms shall be protected by approved self-closing fire doors suitable for class B openings.

(3) A service opening shall be enclosed in a room or compartment separated from other parts of the building by wall, partition, floor, and floor-ceiling assemblies having a fire-resistance rating of 1 hour with openings to such room or compartment protected by approved self-closing fire doors suitable for class B openings. The room shall be protected in compliance with national fire protection association pamphlet no. 13, 1976, standard for the installation of sprinkler systems.

(4) A service opening into a linen chute or pneumatic linen handling system shall be provided with a self-closing, positive-latching frame and fire door assembly approved for class B openings and having a rating of 1½ hours. The door frame shall be firmly built into the shaft.

(5) Gravity-type chutes shall be protected internally by automatic sprinklers. This requires a sprinkler at the top of the chute and, in addition, a sprinkler shall be installed within the chute at alternate floor levels in buildings over 2 stories. Sprinklers shall be installed in compliance with national fire protection association pamphlet no. 13, 1976, standard for the installation of sprinkler systems.

(6) The room or area into which a chute or linen handling system discharges shall be protected with automatic sprinklers in compliance with national fire protection association pamphlet no. 13, 1976, standard for the installation of sprinkler systems.

History: 1954 ACS 100, p. 22, Eff. July 18, 1979.

R 29.1243 Fire hazard classifications and interior finish.

Rule 243. (1) The alphabetical fire hazard classification of finish materials is determined by a tunnel test in compliance with national fire protection association pamphlet no. 255, 1972, tests of surface burning characteristics of building materials; American society for testing and materials standard no. E-84-77A, 1978, test for surface burning characteristics of building materials; or underwriters' laboratories, inc., standard no. 723, 1977, test method for fire hazard classification of building materials, and grouped as follows:

Class	Flame Spread	Smoke Density
A	0 - 25	0 - 50
B	26 - 75	51 - 125
C	76 - 200	126 - 200

(2) The same alphabetical classification is used for combustibility of prefabricated acoustical tile units only under federal specifications test no. SS-S-118a.

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(3) The fire hazard classification of an interior finish material shall be that of the basic material used, without regard to subsequently applied paint or other covering, which is of such character or thickness, or is so applied, as to not affect materially the characteristics of the classification. Highly combustible material application, such as lacquers or pyroxylin base materials or unapproved wall coverings, shall not be used.

History: 1954 ACS 100, p. 22, Eff. July 18, 1979.

R 29.1244 Unclassified coatings.

Rule 244. Paints or coatings containing plastics, polyesters, or epoxies shall be permitted on limited-combustible surfaces without proof of classification, if not applied in excess of 8 mils total thickness.

History: 1954 ACS 100, p. 23, Eff. July 18, 1979.

R 29.1245 Wall, floor, and ceiling finishes; tack boards.

Rule 245. (1) Except as otherwise permitted in these rules, wall and ceiling finish materials shall not be more hazardous than class A, in compliance with R 29.1243(1). However, in a building completely protected by an automatic sprinkler system, a wall and ceiling finish required to have a class A fire hazard classification may be class B, and a wall required to have a class B fire hazard classification may be class C.

(2) Necessary wood doors and wood trim shall not be more hazardous than class C, in compliance with R 29.1243(1).

(3) A folding-type partition used as a separation in a room, or between rooms, shall be a class B assembly, in compliance with R 29.1243(1).

(4) Floor finish materials shall be class A or B throughout all hospitals and nursing homes, except that a smoke density rating of 450 will be allowed, in compliance with R 29.1243.

(5) A tack board or bulletin board is considered an interior finish; however, it will be permitted as follows:

(a) The board shall be constructed of a material which has been proved to be class A in compliance with R 29.1243 and shall be mounted on a material which is also class A in compliance with R 29.1243.

(b) The board shall not be larger than 16 square feet in each 100 linear feet of corridor, nor larger than 16 square feet for each 300 square feet of wall space in a properly segregated room.

History: 1954 ACS 100, p. 23, Eff. July 18, 1979.

R 29.1246 Draperies and curtains; fixtures.

Rule 246. (1) In a patient- or resident-occupied room, window draperies, privacy screens, and curtains shall be of flameproof material, or shall be rendered and maintained flameproof with an approved flameproofing material in compliance with national fire protection association pamphlet no. 701, 1977, flame-resistant textiles and films. Window sills shall not be used for storage of combustible material.

(2) A fixture shall be at least class C, in compliance with R 29.1243(1).

History: 1954 ACS 100, p. 23, Eff. July 18, 1979.

R 29.1247 Plastic materials as interior finishes.

Rule 247. A plastic material affixed to the surface of a wall or ceiling, such as a plastic panel, paint, wall covering, laminate, or similar item, as well as glazing, is deemed to be an interior finish material and shall be in compliance with R 29.1243.

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A formed plastic material used for transmission or diffusion of light is exempt from the requirements of R 29.1243 if it is of an approved plastic material in compliance with R 29.1248, and the limitations and requirements are in compliance with R 29.1249 or R 29.1250.

History: 1954 ACS 100, p. 23, Eff. July 18, 1979.

R 29.1248 Plastic material burning and smoke density rates.

Rule 248. (1) A plastic material shall burn no faster than 2½ inches per minute in sheets $^{06}/_{000}$ inch thick when tested in compliance with American society for testing and materials standard no. D-635, 1976, test for flammability of self-supporting plastics. Thickness shall be determined in compliance with the methods of American society for testing and materials standard no. D-374, 1974, tests for thickness of solid electrical insulation.

(2) A plastic material, when supported in the manner intended for use, shall have a smoke density rating of not more than 450 when tested in compliance with the American society for testing and materials standard no. E-84-77A, 1978, test for surface burning characteristics of building materials; underwriters' laboratories, inc., standard no. 723, 1977, test method for fire hazard classification of building materials; or national fire protection association pamphlet no. 255, 1972, tests of surface burning characteristics of building materials. When supported in the manner intended for use, a plastic material shall have a smoke density rating of not more than 75 when tested in the thickness intended for use, in compliance with American society for testing and materials standard no. D-2843, 1976, method of test for measuring the density of smoke from the burning or decomposition of plastics.

(3) The manufacturer shall provide notarized certification stating that the material used in the products furnished complies with this rule. The certification shall be accompanied by a test report from an approved independent testing laboratory or reference to the underwriters' laboratories, inc., listing, and each sheet, panel, grid, or unit shall be labeled for the purpose of identification.

History: 1954 ACS 100, p. 24, Eff. July 18, 1979.

R 29.1249 Light fixture diffusers.

Rule 249. (1) "Diffuser" means a lens or face enclosure of a light fixture which may be suspended from, or surface mounted on, a ceiling or roof, or recessed in a ceiling. A plastic diffuser shall be in compliance with R 29.1248.

(2) The surface area of a diffuser shall not comprise more than 10% of the ceiling area of a patient room or space, or more than 30% of the ceiling area of an administration and service room or space. The area of a single piece of a diffuser shall be not more than 30 square feet, with a dimension of not more than 8 feet. The surface area is not limited in a building completely protected by an automatic sprinkler system. In rated assemblies, the area shall not be more than the size tested.

(3) A diffuser shall remain in place for not less than 15 minutes at a temperature of 175 degrees Fahrenheit when tested in compliance with American society for testing and materials standard no. D-648, 1972, test for deflection temperature of plastics under load, but shall fall from its mountings at 200 degrees Fahrenheit below its ignition temperature when tested in compliance with American society for testing and materials standard no. D-1929, 1975, test for ignition properties of plastics.

History: 1954 ACS 100, p. 24, Eff. July 18, 1979.

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R 29.1250 Light diffusing systems.

Rule 250. (1) A light diffusing system consists, in whole or in part, of lenses, panels, grids, grilles, or baffles suspended below lighting fixtures. Formed plastics shall be in compliance with R 29.1248 and R 29.1249(3), and shall comprise not more than 10% of the ceiling area of a patient room or space, nor more than 30% of the ceiling area of an administration and service room or space.

(2) If the hospital or institution building is completely protected by an automatic sprinkler system, diffusing systems shall be in compliance with the requirements of R 29.1249(3), except that the area allowed is not limited. Sprinklers used with a diffusing system shall be installed both above and below the system, unless the sprinklers have been tested and approved for use above the system only.

History: 1954 ACS 100, p. 24, Eff. July 18, 1979.

R 29.1251 Fire alarm systems.

Rule 251. (1) A hospital or an institution shall be equipped with an approved electrically operated, closed circuit, self-supervised, local fire alarm system with a suitable signaling device of such character and located so as to communicate the alarm of fire to personnel on each floor of the building, as well as to a manned centrally located 24-hour duty station within the building, so that immediate notification can be given to a fire department. In a multistory building, the 24-hour duty station shall have an annunciator indicating the location of the signaling device activated.

(2) An actuating station, located near exits, shall be provided on each floor and basement, so that travel to reach a station does not exceed 100 feet, and shall also be provided in heating plant rooms, main office, kitchen, and in rooms accommodating over 100 people.

(3) A telephone or other suitable means of communicating an alarm of fire to a fire department shall be provided. A pay station telephone shall not be permitted as an approved means of sending an alarm of fire.

(4) An electrical circuit serving the fire alarm devices shall be installed on a separate circuit in a metallic conduit fused ahead of the main entrance switch, and shall be connected to an emergency electrical service. If an internal combustion engine-driven generator is installed for takeover of an emergency circuit, the primary supply does not need to be ahead of the main entrance switch.

(5) A fire alarm system trouble bell (or dearrangement signal) shall be provided at a 24-hour manned location. If the trouble bell can be silenced, without the system being restored, a trouble light shall be provided which will remain lighted until the system is returned to full operation.

(6) Fire alarm components shall be labeled or listed by a nationally recognized testing laboratory. The fire alarm panel shall bear the approved label, and shall be installed in compliance with the applicable national fire protection association requirements.

(7) An addition to an existing building shall be provided with an approved fire alarm system, and shall be interconnected to the existing system.

(8) Fire alarm systems shall be tested monthly, and records of all tests shall be maintained.

(9) Presignal fire alarm systems are not permitted.

(10) Actuating stations shall be painted a contrasting color.

(11) Fire alarm sounding devices shall be distinct from other devices used for other purposes.

History: 1954 ACS 100, p. 24, Eff. July 18, 1979.

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R 29.1252 Smoke detection systems.

Rule 252. An approved smoke detection system shall be installed in a corridor of a hospital or an institution. Smoke detectors shall be spaced 30 feet on centers and not more than 15 feet from a wall (see also R 29.1238(4) to (6)), or where each patient or resident bedroom is protected by an approved detection system and a local detector is provided at the smoke partition, additional corridor detection devices shall not be required on the patient or resident bedroom floor.

History: 1954 ACS 100, p. 25, Eff. July 18, 1979.

R 29.1253 Chimneys and fireplaces.

Rule 253. (1) A heating appliance and other fired units shall be vented by a smoke pipe to a chimney constructed of masonry, reinforced concrete, or other approved refractory material, properly erected and maintained in a safe condition. A bracket chimney shall not be permitted. This shall not prohibit the installation and use of a prefabricated chimney bearing the label of approval of underwriters' laboratories, inc., if it is installed and used in compliance with the specifications of that organization, nor shall it prohibit a metal smokestack when constructed and installed in compliance with the national fire protection association pamphlet no. 211, 1977, chimneys, fireplaces and venting systems.

(2) A chimney shall be located so that it is not necessary to run a stack through a partition from the appliance being served.

(3) A fireplace is prohibited.

History: 1954 ACS 100, p. 25, Eff. July 18, 1979.

R 29.1254 Oil and gas burners.

Rule 254. Oil and gas burners listed and labeled only by underwriters' laboratories, inc., gas and oil equipment directory, 1977, or the American gas association laboratories directory of certified appliances, July, 1978, shall be approved for use in a hospital or an institution.

History: 1954 ACS 100, p. 25, Eff. July 18, 1979.

R 29.1255 Heating plant room; location, construction, and use.

Rule 255. (1) A heating plant room shall be enclosed by walls, floor, and ceiling having a 1-hour fire-resistance rating. One wall of a heating plant room shall be an outside wall not less than 50% of the longest room dimension and the outside wall shall have a door or openable window, opening directly to the outside not exposing an inner court. A window in an outside wall not having a door shall have a clear opening, with a dimension of not less than 22 inches and not less than 5 square feet in area. A door opening into the building from the heating plant room shall swing into the heating plant room.

(2) A furnace room or heating plant enclosure shall be provided with approved air vents connected directly to the outside, and shall be sufficient in size to supply the required volume of air to support proper combustion.

(3) The use of a portable heating unit shall not be permitted.

(4) No part of a heating plant room shall be used for storage of combustibles or as a maintenance shop unless the room is protected with an automatic sprinkler system. Tools and supplies necessary for the day-to-day maintenance of the heating plant or associated equipment shall be permitted without the installation of an automatic sprinkler system.

(5) A room containing fired equipment for space heating or for heating water shall be considered a heating plant room, and shall be located and protected in compliance with this rule.

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(6) A roof-mounted heating unit having a combustion chamber shall be separated from the roof by construction having a 1-hour fire-resistance rating, with duct openings protected by fire dampers. A unit mounted on noncombustible supports, with 12 inches of clear openings above a noncombustible roof, shall be considered to meet the 1-hour fire-resistance rating, and fire dampers for ducts shall be provided at the noncombustible roof line.

(7) All products of combustion for a fuel-fired unit shall be vented to the atmosphere.

History: 1954 ACS 100, p. 26, Eff. July 18, 1979.

R 29.1256 Incinerator room.

Rule 256. (1) An incinerator room shall be separated from the remainder of the building by 1-hour fire-resistive construction, and the room shall be protected by an automatic sprinkler system.

(2) A door from an incinerator room entering into a required egress corridor or passageway shall be hung so as to swing into the incinerator room.

(3) A room in which an incinerator of more than 2 bushels capacity is located shall be furnished air for combustion and ventilation.

History: 1954 ACS 100, p. 26, Eff. July 18, 1979.

R 29.1258 Storage of flammable liquids.

Rule 258. A flammable liquid shall not be stored or used in any hospital or institution building, other than a liquid which is required for maintenance of the building, for laboratory work, for patient treatment, or for demonstration purposes. Such storage, except that which is required for a 1-day supply, shall be permitted as follows:

(a) A room for storage of flammable liquids shall be of 2-hour fire-resistive construction for storage of more than:

(i) Fifty-five gallons of class I liquid.

(ii) Two hundred twenty gallons of class II liquid.

(iii) Five hundred fifty gallons of class III liquid.

(b) A room for storage of flammable liquids shall be of 1-hour fire-resistive construction for storage of more than:

(i) Five gallons of class I liquid, but less than 55 gallons.

(ii) Ten gallons of class II liquid, but less than 220 gallons.

(iii) Twenty-five gallons of class III liquid, but less than 550 gallons.

(c) An inside door opening shall be provided with not less than a 6-inch high, noncombustible, vaportight sill or ramp.

(d) The floor shall be waterproof and arranged to drain to a safe location.

(e) Shelving shall be noncombustible.

(f) Electrical equipment shall be installed in compliance with national fire protection association pamphlet no. 70, 1978, national electrical code.

(g) When natural ventilation is not sufficient to carry off accumulated vapors, ventilation shall be provided as specified in R 29.1270.

(h) The floor of the storage room shall not be located below grade.

(i) There shall be no communication between the flammable liquids storage room and the storage area for combustible gases or oxygen.

(j) Windows exposed to and within 10 feet of the flammable liquid storage shall be metal sash and wired glass, and doors so located shall be 1-hour labeled doors.

(k) Except when stored in compliance with this rule, the amount of flammable liquids maintained for use in a building shall be not more than that required for a 1-day operation.

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(l) Transportation of flammable liquids in open containers is prohibited.

(m) Flammable liquids shall not be handled in open containers in quantities of more than the following:

(i) One pint of class I liquid.

(ii) One quart of class II liquid.

(iii) One gallon of class III liquid.

(n) Heat in a flammable liquid storage room shall be by steam or hot water from a remote source.

(o) Class I or II flammable liquids shall not be stored in a refrigerator unless the refrigerator is approved for flammable liquid storage.

History: 1954 ACS 100, p. 26, Eff. July 18, 1979.

R 29.1259 Storage of combustible gases.

Rule 259. (1) A separate room shall be provided for the storage of combustible gases, and no other storage or use shall be permitted in that room.

(2) A room for the storage of combustible gases shall be separated from the remainder of the building by 1-hour fire-resistive construction.

(3) There shall not be a direct opening from a storage room for combustible gases to a storage compartment for flammable liquids, oxygen, or other oxidizing gases.

(4) Electrical wiring, fixtures, and equipment shall be installed in compliance with national fire protection association pamphlet no. 70, 1978, national electrical code.

(5) A storage room for combustible gases shall not be located below grade and shall have 1 wall which is an outside wall.

(6) Ventilation shall be provided to prevent the accumulation of vapors. See R 29.1270.

(7) A storage room for combustible gases shall have an outside wall with a window or open louver equivalent in venting area to 10% of the area of the outside wall, or 10% of the floor area of the room, whichever is greater. A window or louver shall be installed to open outward so as to vent the force of an explosion. If it is a window, it shall not be fastened in a closed position unless the glass is held in place with frangible metal clips. A window or louver shall be located not less than 10 feet horizontally from an adjoining property line or other exposure. Windows shall be metal frame and glazed with ¼-inch wired glass.

(8) A provision shall be made for a rack or fastening to protect a cylinder from accidental damage or dislocation.

(9) Heating shall be indirect hot water or steam, or by an approved electric heater.

(10) Except when stored in compliance with this rule, the amount of combustible gases maintained for use in a building shall be not more than that required for a 1-day operation.

History: 1954 ACS 100, p. 27, Eff. July 18, 1979.

R 29.1260 Storage of oxygen, nitrous oxide, and inert gases.

Rule 260. (1) A separate room shall be provided for the storage of oxygen, nitrous oxide, and inert gases, and no other storage or use of that room shall be permitted. See R 29.1270.

(2) A room for the storage of oxygen, nitrous oxide, and inert gases shall be separated from the remainder of the building by 1-hour fire-resistive construction.

(3) A storage room or manifold enclosure for oxygen, nitrous oxide, or inert gases of more than 1,500 cubic feet manifold or cylinder capacity shall not be

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located below grade. The room shall have 1 wall which is an outside wall of the building and which has a window not less than 6 square feet in area, 1 square foot of which shall be louvered for ventilation.

(4) A provision shall be made for a rack or fastening to protect a cylinder from accidental damage or dislocation.

(5) Oxygen of more than 12,000 cubic feet shall be located in compliance with the requirements for bulk oxygen systems. See R 29.1261.

(6) A 1-day supply of oxygen, nitrous oxide, and inert gases shall be permitted to be kept in the room where used.

History: 1954 ACS 100, p. 27, Eff. July 18, 1979.

R 29.1261 Bulk oxygen systems.

Rule 261. A bulk oxygen system shall be installed and maintained in compliance with national fire protection association pamphlet no. 50, 1974, bulk oxygen systems at consumers sites.

History: 1954 ACS 100, p. 28, Eff. July 18, 1979.

R 29.1262 Anesthetizing gases.

Rule 262. (1) A piping system shall not be used for the distribution of combustible anesthetic gases.

(2) A shutoff valve shall be located in an oxygen or nitrous oxide line, and shall be located outside an anesthetizing location so as to be readily accessible for use in an emergency. A valve shall be of an approved type, mounted on a pedestal or otherwise properly safeguarded against mechanical injury, and marked to prohibit tampering or inadvertent closing, such as by the words:

Do Not Close Except In An Emergency
This Valve Controls Supply To . . . .

(3) A suitable, approved regulator or other gas flow control device, capable of reducing cylinder pressure shall be used in conjunction with a cylinder containing gas used for medicinal purposes. A device of this type shall be used only for the cylinder of gas for which it is designed.

(4) Equipment shall not be used for coupling a cylinder containing compressed gas if that equipment permits the intermixing of a different gas in a portion of the high-pressure side of a system in which the gas may flow. An oxidizing gas under pressure shall not be intermixed with a flammable gas under pressure.

(5) A yoke-type connection between an anesthetic apparatus and a flush-type valve used with an anesthetic gas cylinder shall have a pin index safety system consisting of a combination of 2 pins projecting from the yoke assembly of the apparatus and positioned so as to fit into matching holes drilled into the cylinder valves. The safety system is intended to protect against the possibility of error in attaching the flush-type valve, with which gas cylinders and other sources of gas supply are equipped, to gas apparatus having yoke connections. Fabrication specifications are contained in American national standard B57.1, 1963, compressed gas cylinder valve outlet and inlet connections.

(6) A cover for anesthesia equipment or a cylinder shall be of a type which cannot confine escaping gas or cause an electrostatic or percussion spark.

History: 1954 ACS 100, p. 28, Eff. July 18, 1979.

R 29.1263 Storage room for internal combustion-powered equipment.

Rule 263. Maintenance vehicles, internal powered equipment and devices, and other internal combustion equipment requiring a flammable fuel for use by a hospital or an institution, but not necessary for patient treatment or care, shall not

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be stored in a hospital or an institution. This rule does not apply to the auxiliary electrical power generator required by and installed in compliance with R 29.1278. For the purpose of this requirement, a room or an area separated from a hospital or an institution by materials having a 4-hour fire-resistance rating, and not beneath any part of a building, shall not be considered as a hospital or an institution. A communicating door with the remaining hospital or institution building shall be a 1½-hour underwriters' laboratories, inc., B-labeled or factory mutual labeled fire door assembly.

History: 1954 ACS 100, p. 28, Eff. July 18, 1979.

R 29.1264 Storage rooms; ordinary combustibles.

Rule 264. A room for storage of combustible material, including a janitor room or closet, soiled or clean linen room, receiving room, pharmacy, chemical laboratory, main control kitchen, kitchen storage room or a maintenance shop, shall be separated from the remainder of the building by 1-hour fire-resistive construction and the room shall be protected by an automatic sprinkler system, or an approved automatic fire extinguishing system.

History: 1954 ACS 100, p. 28, Eff. July 18, 1979.

R 29.1265 Laundry locations.

Rule 265. (1) A laundry shall be separated from the remainder of the building by 1-hour fire-resistive construction and the room shall be protected by an automatic sprinkler system.

(2) A steam line or hot water line shall be insulated with a limited-combustible material, and shall have 1-inch clearance from combustibles.

(3) A dryer shall be constructed of metal, shall be independently vented or be a part of a regular laundry venting system, and shall not penetrate a wall or ceiling which is required to have a fire-resistance rating unless it is enclosed in a shaft having a 1-hour fire-resistance rating tested from the inside out. No other duct shall be in the shaft.

(4) All gas appliances shall have 100% automatic and manual shutoff controls.

(5) All electric heating devices and appliances equipped with automatic heat controls shall be equipped with pilot lights.

History: 1954 ACS 100, p. 29, Eff. July 18, 1979.

R 29.1266 Clean and soiled utility rooms.

Rule 266. A clean and soiled utility room shall be separated from the remainder of the building by 1-hour fire-resistive construction and the room shall be protected by an automatic sprinkler system. Openings shall be protected by an approved ¾-hour labeled fire door assembly. A closing device equipped with a smoke detector to hold the door open shall be permitted.

History: 1954 ACS 100, p. 29, Eff. July 18, 1979.

R 29.1267 Ethylene oxide gas.

Rule 267. (1) For mixtures of ethylene oxide gas in excess of 12%:

(a) The sterilizer unit shall be permanently installed in an area approved for hazardous materials use. The unit shall be equipped with an interlocking mechanism that prevents the chamber from being opened without the chamber first having been completely purged. Where electrical controls are provided, wiring and contacts shall be approved for use in a hazardous location to prevent the ignition of ethylene oxide gas within the sterlizing chamber.

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(b) The sterilizer shall be permanently and effectively grounded.

(c) The sterilizer shall be permanently and effectively vented to the outside of the building above grade, with no opening back into the building within 25 feet of the discharge. Venting into a court or airway is prohibited.

(d) Storage of a cylinder or cartridge of ethylene oxide gas shall be in compliance with R 29.1258 and R 29.1259.

(e) An operation manual, detailing the operation of the equipment, pointing out the flammability of the ethylene oxide, and warning of the possible dangers to health, shall be provided for each person who operates the unit. This manual shall be provided by the manufacturer.

(f) The criteria required by this subrule is the minimum acceptable for the installation of an ethylene oxide sterilizer and the storage of gas. Manufacturer's instructions for installation of a unit, which may be more stringent, shall be complied with fully.

(2) For mixtures of ethylene oxide gas of less than 12%:

(a) The use, handling, and storage shall be in compliance with R 29.1260.

(b) The sterilizer unit shall be installed and operated in compliance with the manufacturer's instructions.

History: 1954 ACS 100, p. 29, Eff. July 18, 1979.

R 29.1268 Equipment for flammable anesthetizing locations.

Rule 268. Electrical wiring, fixtures, appliances, apparatus, and equipment used in a flammable anesthetizing location shall be of a type approved for use in an explosive atmosphere, in compliance with the national fire protection association pamphlet no. 70, 1978, national electrical code.

History: 1954 ACS 100, p. 29, Eff. July 18, 1979.

R 29.1269 Ventilation for flammable anesthetizing locations.

Rule 269. (1) Each anesthetizing location shall be individually ventilated, and the air shall not be recirculated where flammable anesthetics are used.

(2) Mechanical ventilation shall be provided for a flammable anesthetizing location and shall comply with the following criteria:

(a) Afford not less than 12 changes of air per hour.

(b) Maintain a relative humidity of not less than 55% at the temperature of the room.

(c) An exhaust air grille or opening shall not be located more than 8 inches above the floor.

History: 1954 ACS 100, p. 29, Eff. July 18, 1979.

R 29.1270 Ventilation for gases and flammable liquid storage.

Rule 270. (1) A room in which combustible gases and flammable liquids are stored shall be individually ventilated, and the air shall not be recirculated. See R 29.1258 to R 29.1260.

(2) In a storage location for combustible gases and flammable liquids, gravity or natural ventilation is desirable; however, if mechanical ventilation is used, the ducts shall be of substantial metal construction, extending to the exterior of the building, and shall terminate in an efficient suction-creating device having screened openings at the floor level. If a mechanical system is necessary, it shall be installed in compliance with national fire protection association pamphlet no. 91, 1973, blower and exhaust systems, dust, stock and vapor removal.

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(3) A storage room or manifold enclosure for oxygen and nitrous oxide of more than 1,500 cubic feet manifold or cylinder capacity shall be vented to the outside in compliance with R 29.1260(3).

History: 1954 ACS 100, p. 30, Eff. July 18, 1979.

R 29.1271 Ventilation; power exhaust.

Rule 271. Where power exhaust ventilation is to be used for an area housing combustion equipment, an air supply shall be provided equal to the amount exhausted, so that negative pressures do not develop, thus resulting in reversal of drafts in chimney flues.

History: 1954 ACS 100, p. 30, Eff. July 18, 1979.

R 29.1272 Fan and air-handling units.

Rule 272. (1) A fan unit or other air-handling unit shall be separated from other occupancies with time-rated construction as required by that occupancy. A unit serving more than 1 floor, or a unit located on 1 floor and serving another floor, requires 1-hour fire-resistive separation from all other usage not necessary for the fan operation.

(2) Automatic smoke detectors shall be provided for all fan units on the downstream side of the air filters, actuation of which shall open the electrical circuit supplying the fan motor and electrically relayed to the fire alarm system of the building. This requirement does not apply to:

(a) A unit located in a room and serving only that room.

(b) A unit serving exhaust air only.

(3) Smoke detectors shall be located in the return air duct ahead of the fresh air intake, actuation of which will open the electrical circuit supplying the fan motor and relay a signal to, and actuate, the building's fire alarm system. This requirement does not apply to:

(a) A unit located in a room and serving only that room.

(b) A unit serving exhaust air only.

(4) All units of more than 15,000 cubic feet per minute shall be provided with smoke detectors on both supply and return sides of the unit, which shall perform the same functions as described in subrules (2) and (3).

(5) All units shall be equipped with a manual emergency stop conveniently located for quick shutdown.

(6) All filters used in air-handling units shall be equal to, or be better than, class 1 filters when tested by underwriters' laboratories, inc., standard 900, 1977, air filter units.

History: 1954 ACS 100, p. 30, Eff. July 18, 1979.

R 29.1273 Fire dampers.

Rule 273. (1) Approved fire dampers shall be provided in all ducts piercing all required time-rated walls, floors, vertical shafts, or ceilings. Duct penetrations of the walls required by R 29.1223(3) do not require a fire damper if the wall opening is 324 square inches or less and if the ductwork is a complete, substantial separation system of metal or equivalent material having tight seams and joints.

(2) Required fire dampers used also to prevent the spread of smoke shall not be altered in any way which negates the approved fire damper label.

(3) Inspection and maintenance doors shall be provided in ducts adjacent to required fire dampers. The opening shall be not less than 12 inches by 12 inches, unless restricted to less by the duct size.

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(4) Ducts of not more than 20 square inches may pierce floors and vertical shaft walls without fire dampers if the duct is constructed of steel conforming to the requirements of the state fire marshal, fire damper clarification, fifth edition, 1975, and the duct serves a terminal unit with the discharge not more than 4 feet above the floor.

(5) Installation of fire dampers shall be in compliance with the requirements of the state fire marshal, fire damper clarification, fifth edition, 1975.

History: 1954 ACS 100, p. 30, Eff. July 18, 1979.

R 29.1274 Exit corridors and plenums.

Rule 274. (1) A corridor, stair, or ramp, serving as an exit, shall not be used for supply, return, or exhaust air, except that small rooms opening directly on corridors may use corridor air for exhaust purposes. Air shall not be transferred through a corridor wall, or wall required to be fire-resistive.

(2) The space between ceilings and floors, if containing unprotected framing members, shall not be used for air handling.

(3) Parts of the building may be used as plenums if the construction is limited-combustible and is reasonably airtight. Lay-in or spline ceilings are not considered airtight.

History: 1954 ACS 100, p. 31, Eff. July 18, 1979.

R 29.1275 Duct construction and insulation.

Rule 275. (1) All ducts or plenums used for air handling shall be constructed of metal or other noncombustible materials and shall be constructed so as to be reasonably airtight. Materials which meet limited-combustible and class A requirements may be used, except that they may not penetrate a required fire-resistive wall, floor, or ceiling.

(2) Duct connectors shall be not less than class A material (see R 29.1243(1)), shall be not more than 14 feet, and shall not pierce a required fire-resistive wall, floor, or ceiling.

(3) All ducts and duct openings shall be constructed and located so as to minimize damage and prevent inclusion of foreign materials.

(4) All duct insulation, including adhesives, coatings, and films, shall be not less than class A material, in compliance with R 29.1243(1).

(5) There shall be no recirculation of air in a room or area where flammable liquids or gases are present.

(6) A fuel-fired heating unit shall not be installed in a duct or plenum. See R 29.1255 for heating plant location and construction requirements.

(7) Insulation material, where used for lining or covering for a duct, plenum, or fan unit, or for mechanical piping, shall be of class A material, as specified in R 29.1243(1).

History: 1954 ACS 100, p. 31, Eff. July 18, 1979.

R 29.1276 Electrostatic protection.

Rule 276. (1) To provide electrostatic protection, the entire surface of a floor in a flammable anesthetizing location, room, corridor, or surgery suite, and 10 feet on either side of a door in a corridor communicating with such flammable anesthetizing location, shall provide a path of moderate electrical conductivity between a person and equipment making contact with the floor, in compliance with national fire protection association pamphlet no. 56A, 1973, inhalation anesthetics code, and R 29.1427.

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(2) In addition to the requirements of R 29.1262 and subrule (1), equipment in an anesthetizing location shall be installed in compliance with national fire protection association pamphlet no. 56A, 1973, inhalation anesthetics code.

History: 1954 ACS 100, p. 31, Eff. July 18, 1979.

R 29.1277 Electrical wiring and equipment.

Rule 277. (1) Electrical wiring and equipment, including emergency electrical supply, shall be installed in compliance with national fire protection association pamphlet no. 70, 1978, national electrical code.

(2) The electrical service entrance shall be located in a room separated from other occupancies and exposures by an enclosure having a 1-hour fire-resistance rating.

(3) Electrical plan and specification approval and complete inspection shall be made by an electrical inspection authority acceptable to the state fire marshal. The authority shall issue a final certification of compliance covering the installation, with a copy provided to the state fire marshal.

History: 1954 ACS 100, p. 31, Eff. July 18, 1979.

R 29.1278 Emergency electrical supply.

Rule 278. (1) A hospital or institution shall have an approved emergency electrical supply, which, in the event of interruption of the normal supply, is capable of supplying power for required exit and egress lighting, critical care area, life support systems, and required emergency signaling systems, such as fire alarm and detection systems, intercommunication systems, and telephone equipment.

(2) An "emergency electrical supply" means an internal combustion engine-driven generator with a supply of fuel stored on the premises sufficient for 24 hours operation at rated capacity. The generator shall automatically operate by a drop in the voltage of the normal power supply and provide the required power within 10 seconds of the drop in voltage of the normal power. Testing of the generator shall be in compliance with R 29.1420. In a home for the aged, approved battery-operated emergency illumination shall be permitted in lieu of the requirements of subrule (1).

(3) A room or enclosure for an engine-driven generator shall be used for no other purpose.

(a) When located within a hospital or institution, it shall meet the following requirements:

(i) The room shall be separated from the remainder of the building by 1-hour fire-resistive construction.

(ii) One wall of the engine-driven generator room shall be an outside wall not exposing an inner court and having a suitable window or door to provide for explosion pressure relief and fire fighting access.

(iii) An inside door from an engine-driven generator room shall be hung to swing into the engine-driven generator room.

(iv) An engine-driven generator room housing a flammable liquid-fueled engine shall have a 6-inch noncombustible, vapor-tight sill or ramp at each inside opening and a watertight floor arranged to drain to a safe location.

(v) An engine-driven generator room shall be provided with air vents connected directly to the outside to supply sufficient air for combustion and cooling.

(b) When an engine-driven generator is located outside it shall be in a weather-proof enclosure or building separated from the hospital or institution by 1-hour fire-resistive construction or 10 feet from any exposure.

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(4) When flammable liquids are used to supply an internal combustion engine-driven generator, the storage tank shall be located underground and be in compliance with the flammable liquid regulations of the state. A starting tank installed at the generator location shall be permitted as follows:

(a) One gallon of class I liquid.

(b) Three gallons of class II or III liquid to 500 kilovolt-amperes.

(c) Five gallons of class II or III liquid over 500 kilovolt-amperes.

(5) Care shall be taken to assure that an engine and generator are not located in an area subject to flooding.

History: 1954 ACS 100, p. 32, Eff. July 18, 1979.

R 29.1279 Hot water heaters and tanks.

Rule 279. (1) A water heater, other than one that is steam or electrically heated, or a booster heater for dishwasher or laundry purposes, shall be installed in a heating plant room or in an enclosure of like construction and location.

(2) A hot water storage tank shall be equipped with 1 of the following safety devices, which shall prevent temperatures of more than 210 degrees Fahrenheit and pressures of more than the working pressure for which the tank is designed:

(a) An acceptable pressure-relief valve, combined with an energy cutoff, approved by underwriters' laboratories, inc., or by the American gas association.

(b) An acceptable pressure-relief valve and an acceptable temperature relief valve of the spillage type.

(c) An acceptable combined temperature-pressure-relief valve of the spillage type.

(3) A heater having more than 200,000 British thermal units input, a temperature of more than 200 degrees Fahrenheit, or a water-containing capacity of more than 120 gallons shall be in compliance with the rules of the boiler division of the department of labor.

History: 1954 ACS 100, p. 32, Eff. July 18, 1979.

R 29.1280 Gas.

Rule 280. (1) A master valve shall be provided in a room having 3 or more gas outlets. The valve shall be conveniently located and easily distinguishable so that it may be closed readily.

(2) A shutoff valve for the exterior gas supply lines shall be provided outside of the building.

(3) The installation, use, and maintenance of gas appliances and gas piping shall be in compliance with national fire protection association pamphlet no. 54, 1974, national fuel gas code.

(4) A liquefied petroleum gas or a bottled gas installation shall be in compliance with the requirements of the 1975 Michigan liquefied petroleum gases regulations, R 28.3801 to R 28.3806.

(5) If a gas supply line is placed in a tunnel, it shall be of welded construction, and the tunnel shall have forced ventilation.

(6) A gas line shall not be permitted in an air-conveying duct or plenum unless installed in a continuous schedule 40 welded black steel pipe sleeve throughout the plenum or duct.

History: 1954 ACS 100, p. 32, Eff. July 18, 1979.

R 29.1281 Nonflammable medical gas systems.

Rule 281. A nonflammable medical gas system shall be installed in compliance with national fire protection association pamphlet no. 56F, 1977, nonflammable medical gas systems.

History: 1954 ACS 100, p. 33, Eff. July 18, 1979.

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R 29.1282 Refrigerating equipment.

Rule 282. Refrigerating equipment shall use only a refrigerant which is noncombustible, nontoxic, and nonirritating.

History: 1954 ACS 100, p. 33, Eff. July 18, 1979.

R 29.1283 Kitchen ventilating hoods.

Rule 283. (1) A metal hood or canopy shall be provided over a kitchen cooking appliance in compliance with national fire protection association pamphlet no. 96, 1976, vapor removal from cooking equipment.

(2) Only vaporproof-type electrical wiring and equipment shall be permitted in a hood or canopy.

(3) An exhaust duct from a hood shall run to the outside by the shortest possible route, and when it is run through the concealed space between a ceiling and a floor or roof, or through a floor above, including a recessed hood, it shall be enclosed by construction having a 2-hour fire-resistance rating from the inside.

(4) Fire extinguishment equipment for the hood and exhaust duct of a cooking appliance in a kitchen shall be in compliance with national fire protection association pamphlet no. 96, 1976, vapor removal from cooking equipment.

History: 1954 ACS 100, p. 33, Eff. July 18, 1979.

R 29.1284 Fire extinguisher locations.

Rule 284. (1) A fire extinguisher shall be housed in a special cabinet or wall rack readily accessible at all times. Extinguishers having a gross weight of not more than 40 pounds shall be installed so that the top of the extinguisher is not more than 5 feet above the floor. Extinguishers having a gross weight of more than 40 pounds, except wheeled types, shall be so installed that the top of the extinguisher is not more than 3½ feet above the floor. The cabinet, or the wall in the area of the wall rack, shall be painted a distinguishing color, or the front of the cabinet shall be identified with letters not less than 2½ inches high forming the words "FIRE EXTINGUISHER" in contrast to the background.

(2) The size and location of an extinguisher shall comply with national fire protection association pamphlet no. 10, 1975, portable fire extinguishers, installation, maintenance and use. A standpipe or hose cabinet in compliance with R 29.1286 shall not replace a required fire extinguisher.

(3) Extinguishers of class A type shall be located in corridors, storage areas of combustible materials, shops, and laundries.

(4) Extinguishers of class B:C type shall be located in heating plant rooms, machine rooms, shops, pharmacies, laboratories, kitchens, garages, anesthetizing locations, and storage areas.

History: 1954 ACS 100, p. 33, Eff. July 18, 1979.

R 29.1285 Fire extinguisher types.

Rule 285. A fire extinguisher shall be of a type listed by underwriters' laboratories, inc., or approved by the state fire marshal.

History: 1954 ACS 100, p. 33, Eff. July 18, 1979.

R 29.1286 Standpipes.

Rule 286. A standpipe system for fire department use, or a standpipe system for use by a fire department and persons trained in handling a heavy hose stream, shall be installed in a building more than 2 stories above the highest grade, in compliance with national fire protection association pamphlet no. 14, 1976,

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standpipe and hose systems. Connections shall be sized to fit local fire department equipment and located within a required exit stair. Shop drawings shall be submitted to the state fire marshal for approval before installation.

History: 1954 ACS 100, p. 34, Eff. July 18, 1979.

R 29.1287 Automatic sprinklers.

Rule 287. (1) An approved automatic sprinkler system, in compliance with national fire protection association pamphlet no. 13, 1976, installation of sprinkler systems, shall be provided to protect a hazardous location or room.

(2) Complete shop drawings shall be submitted to the state fire marshal for approval before installation of sprinklers.

(3) A sprinkler contractor certificate covering materials and tests shall be filed with the inspecting authority for a sprinkler installation of more than 10 heads.

(4) An automatic sprinkler system shall be equipped with a flow alarm electrically relayed to the fire alarm system of the building, except for sprinklers installed in compliance with R 29.1288(1).

History: 1954 ACS 100, p. 34, Eff. July 18, 1979.

R 29.1288 Sprinkler water supply.

Rule 288. (1) Sprinkler piping serving not more than 2 sprinkler heads in any isolated hazardous area may be connected directly to the domestic water supply system, limited to no more than 10 heads in any building and otherwise installed in compliance with R 29.1287. A check valve and an approved indicating valve shall be installed in an accessible location between the sprinkler and the connection to the domestic water supply.

(2) Where there is not adequate water from a public water system to supply a sprinkler system, a special pressure tank supply for an automatic sprinkler system, in compliance with national fire protection association pamphlet no. 22, 1976, water tanks, shall be provided. A special pressure tank shall contain 2,000 gallons of water in a 3,000-gallon tank for a partial system. For a complete building system, a special pressure tank shall contain 3,000 gallons of water in a 4,500-gallon tank. A special pressure tank supplying sprinkler water for a building being protected in its entirety shall not be located in a heating plant room.

History: 1954 ACS 100, p. 34, Eff. July 18, 1979.

PART 3. SPECIAL EXCEPTIONS FOR REMODELING EXISTING HOSPITALS AND INSTITUTIONS

R 29.1301 Applicability.

Rule 301. (1) This part grants exceptions to the provisions of part 2 as they relate to the remodeling of an existing hospital or institution upon inspection by an authorized inspection authority, as provided for in section 8 of Act No. 207 of the Public Acts of 1941, as amended. Written notice shall be given to a public or private hospital or institution board or owner, and, where applicable, to a duly authorized agent of such a hospital or institution board or owner, by the inspecting authority finding conditions requiring corrections.

(2) Except as hereinafter provided, fire safety requirements for remodeling an existing hospital or institution shall be the same as those provided for new hospital and institution construction in parts 1 and 2. If a particular building component is remodeled, it shall comply with part 2; however, if it is not intended that the component be changed along with those surrounding it, it may remain if it complies with part 3.

History: 1954 ACS 100, p. 34, Eff. July 18, 1979.

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R 29.1303 Construction.

Rule 303. A hospital or institution having the entire building protected by an automatic fire detection system, and which is in compliance with the other requirements of these rules, shall not be required to comply with R 29.1209(1) if any 1 of the following conditions is met:

(a) The building has been in continuous operation and approval since 1973.

(b) The hospital or institution is for not more than 7 individuals located on the first floor only, 4 of whom may be nonambulatory patients, and a door from each patient or resident room is a direct egress to the outside from the room or into a 6-foot corridor having exits at each end directly to the outside.

(c) The hospital or institution is 1-story having a concrete floor and no basement, is classified as protected ordinary construction, has acceptable corridor-room separation, and has acceptable storage room separation and protection.

(d) The hospital or institution is for residents only, and the residents are located only on the first floor.

History: 1954 ACS 100, p. 34, Eff. July 18, 1979.

R 29.1305 Exits generally.

Rule 305. (1) An approved second means of egress shall be provided for a resident- or patient-occupied room of more than 8 beds.

(2) In a building of fire-resistive construction, or a building which is protected by an automatic sprinkler system, where present exits are separated by not less than 50% of the dimension of the building, the housing of not more than 10 patients beyond a means of egress may be permitted if there is no storage room, pharmacy, or other hazardous occupancy between the patient- or resident-occupied room and the means of egress, and if the most remote, occupied room door is not more than 50 feet from the means of egress.

History: 1954 ACS 100, p. 35, Eff. July 18, 1979.

R 29.1307 Exit and corridor dimensions.

Rule 307. An approved corridor width shall be not less than 48 inches clear, with a height not less than 84 inches.

History: 1954 ACS 100, p. 35, Eff. July 18, 1979.

R 29.1309 Exit doors.

Rule 309. (1) For the exit door for a room, and for a door forming a part of an approved means of egress intended for patient and resident occupancy, the following door width shall be permitted:

(a) For nonambulatory patient use—42 inches.

(b) For ambulatory patient and resident use—30 inches.

(c) For a toilet room serving a patient- and resident-occupied room, and not opening on an exit corridor—28 inches.

(2) A patient-occupied room shall have 1 doorway opening directly to the outside, or to a corridor which leads directly, or by stairway, to the outside, except in areas permitted in R 29.1223(2)(d) and R 29.1311(4).

History: 1954 ACS 100, p. 35, Eff. July 18, 1979.

R 29.1311 Corridors.

Rule 311. (1) A doorway entering a corridor or egress passage shall be protected by a substantially constructed, side-hinged, swing-type door equipped with latching hardware and constructed to provide a reasonably smoketight

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enclosure. A thin panel or a hollow-core wood door shall not be permitted. In a sprinklered building, a reasonably smoketight door shall be permitted to remain.

(2) A room to corridor partition shall be of substantial construction and shall be reasonably smoketight, with any glass being ¼-inch wired glass, not more than 1,296 square inches in area, including wired glass in doors, except that a 100% sprinklered building shall have no glass size restriction. See R 29.1145(8) and R 29.1223(3).

(3) A transom in a corridor partition shall be permanently sealed and made fire-resistive equal to the related partition construction.

(4) An existing corridor which exits through a lobby, approved after 1961, shall be permitted.

History: 1954 ACS 100, p. 35, Eff. July 18, 1979.

R 29.1315 Exit door hardware generally.

Rule 315. Hardware shall be in compliance with parts 1 and 2 of these rules with the exception that knob- or latch-type hardware which will insure opening of the door by a single motion, as by turning a knob or by pressure of a latch with normal strength, and which is nonlocking against egress, shall be permitted on a door which is provided as an exit giving egress directly to the outside from a room of less than 50 people.

History: 1954 ACS 100, p. 35, Eff. July 18, 1979.

R 29.1317 Fire door assembly resistance rating.

Rule 317. An occupancy required to have a fire door assembly may have situations in a building which do not require replacement of a certain door and frame if the inspecting officer finds the features acceptable and so stipulates in his report to the state fire marshal.

History: 1954 ACS 100, p. 35, Eff. July 18, 1979.

R 29.1319 Stairway enclosures.

Rule 319. (1) A hospital or an institution stairway shall be separated from the rest of the building with material having a ½-hour fire-resistive construction or shall be improved to not less than ½-hour limited-combustible construction.

(2) An existing stairway exiting through a lobby, approved after 1961, shall be permitted.

(3) A stairway forming an approved means of egress, but which is less than 44 inches wide in the clear, or which has tread dimensions of less than 9½ inches, and risers of more than 7¾ inches, and where the vertical distance between platforms or landings is not more than 9 feet, shall be considered if the measurement specifications are listed in a written report to the state fire marshal and if the inspecting officer recommends it on the basis that no distinct hazard to life safety exists.

(4) A doorway into a stairway enclosure and a doorway serving other vertical openings shall be of equal fire-resistance rating as the partition in which the doorway is installed, and shall be equipped with an approved self-closing device and latch. The door shall be hung to permit convenient manual opening and closing. The door shall be maintained in a closed position, and shall have a prominent sign on each side containing the words: Fire Door—Keep Closed. Glass in a door shall be ¼-inch wired glass.

History: 1954 ACS 100, p. 36, Eff. July 18, 1979.

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R 29.1323 Fire escapes.

Rule 323. (1) A hospital or an institution which is provided with outside fire escapes as a required means of egress shall not be required to replace the fire escapes to comply with this rule if:

(a) They are certified by an architect or structural engineer, in affidavit form, attesting to their structural stability, upon request by the state fire marshal.

(b) Protection against fire in the building is by blank or closed walls directly under the stairway and for a distance of 6 feet in all other directions. A window shall be permitted within this area if it is stationary, of steel sash, and glazed with wired glass of not less than ¼-inch thickness.

(2) If necessary to correct an existing deficiency in an existing building created by a dead-end corridor, an approved outside fire escape shall be permitted.

(3) A tubular or spiral slide-type fire escape is prohibited.

(4) The bottom riser shall terminate at ground level, with the last riser not more than the spacing of the riser above.

(5) A doorway leading to a fire escape shall be at floor level.

History: 1954 ACS 100, p. 36, Eff. July 18, 1979.

R 29.1325 Ramps.

Rule 325. A ramp in continual use since before the effective date of these rules shall not be required to be brought to compliance with R 29.1237 unless the inspecting authority demands an updating to correct a questionable condition.

History: 1954 ACS 100, p. 36, Eff. July 18, 1979.

R 29.1327 Smoke partitions.

Rule 327. A smoke partition shall be in compliance with R 29.1238 except that the smoke partition and doors of not less than ½-hour fire-resistance rating shall be permitted to remain. Glass in a smoke partition door shall not exceed 1,296 square inches of ¼-inch wired glass. A smoke-activated door release shall be permitted. The travel distance required by R 29.1238(8) shall not apply to an existing facility. The requirements of R 29.1238(10) shall not apply to an existing facility if space is adequate on each side of the smoke partition to accommodate the patients or residents from the adjoining side.

History: 1954 ACS 100, p. 36, Eff. July 18, 1979.

R 29.1329 Elevators and dumbwaiters.

Rule 329. All elevator and dumbwaiter shafts shall be completely enclosed by materials with a fire-resistance rating of not less than 2 hours. No openings shall be allowed through the sidewall enclosures for ventilation or any other purpose. All doors and frames servicing elevators and dumbwaiters shall be approved fire door construction and shall be hung so as to be reasonably smoketight when the doors are closed. Lintels and panels above such doors shall be constructed to resist fire for 1 hour. Where necessary, such doors shall have wired glass ¼-inch thick and the glass shall not exceed 100 square inches.

History: 1954 ACS 100, p. 36, Eff. July 18, 1979.

R 29.1335 Wall and ceiling finishes.

Rule 335. (1) A wood door, trim, backing of shelving, cabinet, and wardrobe shall be included in the 10% permissible class C finish in compliance with subrule (4)

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(2) Interior finish shall be class A or B, in compliance with R 29.1243, except that the interior finish in an individual room, having a capacity of not more than 4 persons, may be class C for walls only.

(3) A class A, B, or C interior finish material, where permitted, shall not be applied or furred out more than 1 inch from a limited-combustible surface, with the space behind firestopped into areas extending not more than 8 feet in any direction.

(4) Interior finishes comprising more than 10% of the aggregate wall and ceiling surfaces of an occupied room or space, and more hazardous than permitted in subrule (3), may be surface treated to comply with subrule (3) if the material is secured to the walls or ceiling, as specified in subrule (3).

(5) If interior finish is more hazardous than class A, in compliance with R 29.1243, and if it is furred out more than 1 inch from limited-combustible wall or ceiling surfaces, it shall be replaced with limited-combustible material, or shall be reinstalled in compliance with subrules (3) and (4).

(6) Wood paneling and combustible acoustical interior finish in a lobby, waiting room, or an office area in an existing building shall be permitted to remain if the room or area is separated from the rest of the building by construction having a 1-hour fire-resistance rating.

(7) A prefabricated acoustical tile unit installed over nonconforming material shall be attached with staples or other acceptable metal clips.

(8) Existing floor finish materials shall not require replacing unless judged to be a hazardous material by the inspecting authority.

History: 1954 ACS 100, p. 37, Eff. July 18, 1979.

R 29.1337 Plastic materials as interior finish.

Rule 337. In an existing hospital or institution plastic light fixture diffusers and light diffusing systems shall not be required to be replaced to be brought in compliance with R 29.1248.

History: 1954 ACS 100, p. 37, Eff. July 18, 1979.

R 29.1339 Fire alarm systems.

Rule 339. A fire alarm system which has been approved in the past shall be approved for continued use if:

(a) The electrical supply serving the system is installed on a separate circuit in a metallic conduit and is fused ahead of the main entrance switch.

(b) The entire system is maintained in operating condition.

(c) The central station receiving volume control is maintained at a level to preclude its being silenced, or muted, or altered so as not to receive incoming calls from a station.

History: 1954 ACS 100, p. 37, Eff. July 18, 1979.

R 29.1341 Heating plant room; location, construction, and use.

Rule 341. (1) In an existing building, the heating plant shall be separated in a room having walls, ceiling, and floor constructed of material having a 1-hour fire-resistance rating, and shall not be used for the storage of maintenance or combustible materials. A heating plant room constructed of combustible materials may be continued in use if protected by an approved automatic sprinkler system.

(2) A doorway or other opening through a required enclosure for heating plant shall be of the same fire-resistive quality as is required of the enclosure, or, in compliance with R 29.1317, shall be hung reasonably smoketight and equipped with a self-closing device.

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(3) A furnace or enclosure shall be provided with an air vent directly to the outside, sufficient to admit the required volume of air to support proper combustion. The air vent shall be maintained in an open condition. A vent may be protected by a louver or other approved device.

(4) A gas meter is prohibited within 5 feet of an ignition source or spark-producing equipment.

(5) A portable or open-flame space heater is prohibited.

History: 1954 ACS 100, p. 37, Eff. July 18, 1979.

R 29.1343 Incinerator room.

Rule 343. (1) An incinerator room, separated from the remainder of the building by 1-hour fire-resistive construction, protected by an automatic sprinkler system and provided with adequate makeup air for combustion, shall not be required to be altered to meet the requirements for new contruction in compliance with R 29.1256.

(2) A gas-fired incinerator of 2-bushel capacity or less may be permitted in an existing boiler room at the discretion of the inspecting officer.

History: 1954 ACS 100, p. 37, Eff. July 18, 1979.

R 29.1345 Storage of oxygen, flammable liquids, and gases.

Rule 345. A storage room for oxygen, gases, and flammable liquids shall be in compliance with R 29.1258, R 29.1259, R 29.1260, and R 29.1270, except that, in a building completely protected by an automatic sprinkler system, an existing substantial enclosure of less than 1-hour fire-resistive construction may be acceptable to the inspecting authority.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1347 Storage rooms; ordinary combustibles.

Rule 347. Closets and storerooms for the storage of ordinary combustibles shall comply with R 29.1264, except that an existing substantial enclosure of such storage room of less than ½-hour fire-resistive construction may be acceptable to the inspecting authority.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1349 Clean and soiled utility rooms.

Rule 349. A clean and a soiled utility room shall comply with R 29.1266(1), except that an existing substantial enclosure of such utility room of not less than ½-hour fire-resistive construction may be acceptable to the inspecting authority.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1351 Fan and air-handling units.

Rule 351. A fan and air-handling unit used for recirculating air in more than 1 room or single area shall be located in a room separated from the remainder of the building by 1-hour fire-resistive construction. Rooms housing fans and air-handling units shall not be used for combustible storage.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1353 Fire dampers.

Rule 353. A heat-actuated fire damper shall be installed on the discharge side of a recirculating fan unit serving more than 1 room or area. There shall be an approved thermostatic device with a setting not in excess of 125 degrees

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Fahrenheit located in the system at a point in the return air duct ahead of the fresh air intake, actuation of which shall open the electrical circuit supplying the fan motor. Where it is impracticable to locate a thermostatic device as described above, an approved heat- or smoke-actuated device, which will open the electrical circuit supplying the fan motor, shall be located in the air duct on the discharge side of the fan.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1355 Exit corridors and plenums.

Rule 355. A system using corridors or exitways as return air plenums shall be reconstructed to eliminate such use. If reconstruction is impractical due to design or construction, the inspecting authority may accept the existing system if an automatic smoke detector is installed in each separate area of such corridors or exitways to automatically open the electrical circuit supplying the fan motor. Such detector shall incorporate visible or audible signals to indicate trouble which would interfere with proper operation of the detector. A stairway shall not be used as a return air plenum.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1357 Duct construction and insulation.

Rule 357. A duct and plenum employing mechanical means for air handling shall be constructed of limited-combustible materials. Where ducts and plenums of an existing system are constructed wholly or in part of combustible materials, they shall be reconstructed of limited-combustible material if practical. However, where such reconstruction is impractical due to design or construction, the inspecting authority may accept the existing installation if fire dampers are installed in the return air duct opening from each room or area.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1359 Electrical wiring and equipment.

Rule 359. In an existing hospital or institution, the electrical service entrance, wiring, fixtures, equipment and their installation shall not be required to be brought to compliance with R 29.1259(4), R 29.1277(1), and R 29.1277(2) unless the inspecting authority demands an updated certificate of electrical inspection due to a questionable condition, in which case compliance with R 29.1277(3) shall be required.

History: 1954 ACS 100, p. 38, Eff. July 18, 1979.

R 29.1361 Auxiliary electrical power.

Rule 361. In an existing hospital or institution, auxiliary electrical power in service without alteration or addition to the system since prior to the effective date of these rules shall not be required to be brought to compliance with R 29.1278 unless the inspecting authority demands an updating to correct a questionable condition.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

R 29.1363 Hot water heaters and tanks.

Rule 363. In an existing hospital or institution, a hot water heater and tank shall be in compliance with R 29.1279, except that R 29.1279(1) shall not apply if the room or enclosure is in compliance with R 29.1341.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

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PART 4. FIRE SAFETY MAINTENANCE

R 29.1401 Fire-safe maintenance.

Rule 401. A hospital or an institution, and the parts thereof, both existing and new, shall be maintained in a fire-safe condition. The hospital or institution board or owner, or the designated agent thereof, is responsible for fire-safe maintenance of the building at all times.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

R 29.1402 Laundry areas.

Rule 402. (1) A lint trap shall be cleaned at weekly intervals. A less frequent schedule may be established if current usage indicates such to be practical.

(2) The use of flammable liquids for cleaning, brushing, scouring, or scrubbing shall be prohibited.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

R 29.1403 Exitways.

Rule 403. The clear width of a doorway, corridor, passageway, or other exitway required by these rules shall not be obstructed or reduced.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

R 29.1404 Doors.

Rule 404. (1) A door from a room to a corridor and to the outside from a room, a door from a corridor to a stairway, and a door from a corridor or a stairway to the outside shall be maintained in good repair, be easily opened at all times, and shall latch freely in a closed position.

(2) A fire door shall be maintained in good repair as provided in subrule (1), and an irreparable fire door shall be replaced.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

R 29.1405 Door hardware.

Rule 405. (1) The closing device on a fire door shall be maintained in good operating condition so that it causes the door to tightly close upon release from an open position. The synchronizing closing devices of double doors without mullions shall be maintained in good operating condition.

(2) Panic bar hardware shall be maintained in good operating condition.

(3) Nonoperating and irreparable door hardware shall be replaced.

(4) A hold-open device, other than that permitted in parts 2 and 3 of these rules, shall not be used or permitted to remain on a fire door.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

R 29.1406 Air-handling systems.

Rule 406. (1) An air-handling system operated only part of the year shall be given a thorough general checkup before starting operation and again after shutting down.

(2) An inspection to determine the amount of dust and waste material in discharge and return ducts shall be made quarterly. If, after several inspections, such frequent inspection is found unnecessary, the interval between inspections may be adjusted to suit the conditions.

(3) Cleaning of the system shall be undertaken when inspection indicates the need.

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(4) Cooling and heating coils shall be cleaned at the time of cleaning the ducts. Thorough cleaning of ducts may require scraping, brushing, or other positive means of removing residue.

(5) A plenum chamber shall be inspected monthly. If, after several inspections, such frequent inspection is found unnecessary, the interval between inspections may be adjusted to suit the conditions. A plenum chamber shall not be used for combustible storage. Caution should be exercised in the use of open flames or spark-emitting devices inside of ducts or plenum chambers, or near air intakes.

(6) Where an area above a ceiling is used for air-handling, a part of the ceiling, which is removed for any purpose, shall be replaced immediately after the purpose for removal is accomplished, and any clips or fasteners replaced or secured.

History: 1954 ACS 100, p. 39, Eff. July 18, 1979.

R 29.1407 Air filters.

Rule 407. (1) An air filter shall be kept free of excess dust and combustible material. A unit filter shall be replaced or cleaned if resistance to the air flow has increased to 2 times the original resistance, or if resistance has reached a point where replacement is recommended by the manufacturer. If a filter is of the automatic liquid adhesive type, sludge shall be regularly removed from the liquid adhesive reservoir.

(2) A filter intended to be thrown away after use shall not be cleaned and reused.

(3) Liquid adhesives shall have a flash point of not less than 325 degrees Fahrenheit.

(4) Electrical equipment of an automatic filter shall be inspected monthly and the operation cycle observed to see that the motor, relays, and other controls function as intended. Drive motors and gear reductions shall be inspected semiannually and lubricated when necessary.

History: 1954 ACS 100, p. 40, Eff. July 18, 1979.

R 29.1408 Fans and motors.

Rule 408. (1) A fan motor of an air-handling system shall be inspected at least quarterly. It shall be cleaned and lubricated as necessary. Care shall be exercised in lubricating a fan to avoid allowing oil to run onto the fan blades. A fan shall be checked for alignment and to insure that it runs freely.

(2) Automatic fan controls shall be inspected annually.

History: 1954 ACS 100, p. 40, Eff. July 18, 1979.

R 29.1409 Fire doors and fire dampers.

Rule 409. (1) Fire doors and fire dampers shall be examined annually, and attention shall be given to hinges and other moving parts to assure good operable condition.

(2) A fire damper which is actuated by heat shall be replaced in service by replacing the fusible link, and no other method of fastening the fire damper in an open position shall be employed.

History: 1954 ACS 100, p. 40, Eff. July 18, 1979.

R 29.1410 Smoke detection devices.

Rule 410. A smoke detection device located on a smoke partition door or in an air-handling unit, duct, or plenum shall be cleaned when the duct or plenum is

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cleaned. All smoke detection devices shall be cleaned and maintained by trained, competent personnel in compliance with the manufacturer's recommendation.

History: 1954 ACS 100, p. 40, Eff. July 18, 1979.

R 29.1411 Sprinkler systems.

Rule 411. (1) A broken pipe hanger on a sprinkler system shall be promptly replaced, and a loose hanger shall be refastened.

(2) Stockpiling, racks, and other obstructions to a sprinkler pattern shall be maintained not less than 18 inches below sprinklers.

(3) A supply of extra sprinklers and a sprinkler wrench shall be kept in a cabinet provided for that purpose.

(4) Piping shall not be used for support of stock or other material, including other service piping and equipment.

(5) A wet piping system, or part of a system, shall not be exposed to freezing temperatures.

(6) If a system is shut off for repairs or other reason, notification shall be given to all personnel and the local fire department. The system shall be replaced in service as soon as possible.

(7) A sprinkler head shall not be painted, and, if inadvertently painted, shall be immediately replaced.

(8) Automatic sprinklers in service without alteration or addition since prior to the effective date of these rules shall be in compliance with R 29.1287, except that R 29.1287(3) shall not apply.

(9) A sprinkler water supply shall comply with R 29.1288, except that R 29.1288 shall not apply unless the inspecting authority demands an updating to correct a questionable condition.

History: 1954 ACS 100, p. 40, Eff. July 18, 1979.

R 29.1412 Sprinkler system weekly inspections.

Rule 412. A weekly inspection shall be made of the following items to insure that a sprinkler is always ready for operation. A record of these inspections shall be maintained for 1 year.

(a) For wet and dry pipe systems:

(i) That any post indicator valve is open.

(ii) That any outside screw and yoke valve is open.

(iii) That water pressure gauges show normal pressures.

(b) For dry pipe systems: That air pressure gauges show normal pressures.

(c) For pressure tank supplied systems (gauge cocks shall remain closed unless a test of water level is being made):

(i) That water level is being maintained at the proper level.

(ii) That items of subdivisions (a) and (b) are checked.

(d) For fire department connections:

(i) That caps are in place, since an open pipe could permit introduction of foreign material into the system.

(ii) That the ball drip is in working order.

(iii) That the check valve is not leaking.

History: 1954 ACS 100, p. 41, Eff. July 18, 1979.

R 29.1413 Sprinkler system quarterly flow tests.

Rule 413. A quarterly flow test shall be made of wet pipe systems by opening the inspector's valve. A quarterly test shall also be made at the drain valve to check water gauge pressures on the system side of the check valve. A record of

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these tests shall be maintained for 1 year. A test shall not be run on a system connected directly to the fire department or central station without first advising that fire department or central station of the test. Proper training for building personnel shall be provided and may be obtained from a sprinkler contractor.

History: 1954 ACS 100, p. 41, Eff. July 18, 1979.

R 29.1414 Sprinkler system monthly and annual tests.

Rule 414. (1) A monthly test shall be made of the water flow alarm through the alarm test at the main valve for testing the relay of flow to the alarm system of the building. A record of these tests shall be maintained for 1 year. Proper training for building personnel shall be provided and may be obtained from a sprinkler contractor.

(2) A dry pipe valve shall be tripped, cleaned, and reset annually. This shall be done only by a qualified person who has been properly trained and who has adequate practical experience in dry pipe valves and sprinkler systems.

(3) A test shall not be run on a system that is connected directly to the fire department or central station without first advising that fire department or central station of the test.

History: 1954 ACS 100, p. 41, Eff. July 18, 1979.

R 29.1415 Standpipes.

Rule 415. (1) Standpipe valves shall be inspected weekly to assure they are always in open position, and a record of these inspections shall be maintained for 1 year.

(2) Fire department connections to a standpipe shall be checked weekly to assure caps are in place, that the ball drip is operative, and that the check valve is not leaking.

(3) Where first aid hose is connected to a standpipe, the valve shall be checked for leakage. Wet hose shall be removed and dried as a prevention against mildew and rot. Old, irreparable hose shall be replaced.

History: 1954 ACS 100, p. 41, Eff. July 18, 1979.

R 29.1416 Fire extinguishers; inspection, maintenance, and recharging.

Rule 416. (1) A fire extinguisher shall be inspected monthly. The inspection shall determine the following:

(a) The extinguisher shall be in its designated place.

(b) Access to, or visibility of, an extinguisher shall not be obstructed.

(c) The operating instructions on an extinguisher nameplate shall be legible and face outward.

(d) A seal or tamper indicator that is broken or missing shall be replaced.

(e) For a water-type without a gauge, fullness shall be determined by hefting.

(f) Any obvious physical damage, corrosion, leakage, or a clogged nozzle shall be noted and the condition corrected or the extinguisher replaced.

(g) A pressure gauge reading, when not in the operable range, shall be noted and the condition corrected.

(h) The date the inspection was performed and the initials of the person performing the inspection shall be recorded, and a record of these inspections shall be maintained for 1 year.

(2) Annually, a fire extinguisher shall be thoroughly checked by examination of all parts to determine that the extinguisher will operate effectively and safely. The necessary repair or parts replacement shall be made and recorded in compliance with subrules (1)(h) and (7).

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(3) Stored pressure extinguishers equipped with pressure indicators or gauges are not required to be maintained at annual intervals.

(4) Every 6 years, a stored pressure, dry chemical extinguisher that requires a 12-year hydrostatic test shall be emptied, recharged, and thoroughly checked by examination of all parts to determine that extinguishers will operate effectively and safely. The necessary repair or parts replacement shall be made and recorded in compliance with subrules (1)(h) and (7).

(5) An extinguisher out of service for maintenance or recharge shall be replaced by a spare extinguisher having the same classification and at least equal rating.

(6) Procedures in compliance with subrules (2), (3), and (7) shall include a thorough examination of the 3 basic elements of an extinguisher: (a) the mechanical parts, (b) the extinguishing agent, and (c) the expelling means.

(7) An extinguisher shall have a tag or label securely attached that indicates the month and year the maintenance was performed, and shall identify the person performing the service.

(8) An extinguisher shall be recharged after use, or as indicated by an inspection, or when performing maintenance. When performing the recharging, the instructions on the nameplate shall be followed.

(9) Every 12 months, soda-acid, foam, pump-tank water, and pump-tank calcium chloride base antifreeze types of extinguishers shall be recharged with new chemicals or water, as applicable. The recharging shall be recorded in compliance with subrules (1)(h) and (7).

(10) The inspecting, servicing, and recharging shall be performed by trained persons having available the proper types of tools, recharge materials, lubricants, and replacement parts.

History: 1954 ACS 100, p. 41, Eff. July 18, 1979.

R 29.1417 Fire extinguisher hydrostatic tests.

Rule 417. A fire extinguisher shall be hydrostatically tested at intervals, as follows:

Extinguisher Type	Test Interval In Years
Soda-acid	5
Cartridge-operated water or antifreeze	5
Carbon dioxide	5
Stored-pressure water or antifreeze	5
Wetting agent	5
Foam	5
Loaded stream	5
Dry chemical, with stainless steel shell, or soldered-brass shell	5
Dry chemical, with braised-brass shell or mild steel shell	12
Dry powder, for metal fires	12

History: 1954 ACS 100, p. 42, Eff. July 18, 1979.

R 29.1418 Exit lights.

Rule 418. An exit light circuit sustaining an electrical outage shall be corrected as soon as possible. A burned-out bulb in an exit sign shall be replaced immediately.

History: 1954 ACS 100, p. 42, Eff. July 18, 1979.

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R 29.1419 General housekeeping.

Rule 419. (1) A building shall be kept clean and free from accumulation of unnecessary combustible material.

(2) Necessary combustible items shall be kept in rooms designed and approved for storage, and in no other location.

(3) Oxygen, combustible gases, and flammable liquids shall not be stored with each other, nor with other ordinary combustible materials.

(4) Rubbish shall be disposed of as soon as possible after its collection.

(5) An easily ignited or rapidly burning combustible decoration shall not be permitted in a building.

History: 1954 ACS 100, p. 42, Eff. July 18, 1979.

R 29.1420 Emergency electrical supply.

Rule 420. An emergency electrical supply unit shall be tested monthly, under load for 30 minutes, and a record shall be maintained of each test by the administration of the facility for 1 year. The record shall be made available for review by fire safety inspection authorities.

History: 1954 ACS 100, p. 43, Eff. July 18, 1979.

R 29.1421 Electrical systems.

Rule 421. (1) When planning additional electrical equipment, lighting, or appliances, advice of persons competent in electrical matters shall be sought and followed.

(2) Fuses and circuit breakers shall not be sized in excess of the capacity of any component part of an electrical circuit.

History: 1954 ACS 100, p. 43, Eff. July 18, 1979.

R 29.1422 Kitchen exhaust systems.

Rule 422. (1) Filters shall be maintained in an efficient condition and kept clean.

(2) A kitchen ventilating hood shall not be required to be brought into compliance with R 29.1283(1), (3), and (4) unless the inspecting authority demands an updating to correct a questionable condition.

History: 1954 ACS 100, p. 43, Eff. July 18, 1979.

R 29.1423 Handling of gases.

Rule 423. (1) A cylinder shall not be connected for use until the user has positively identified the gas content by the label or stencil on the cylinder. If the cylinder is not identified by gas content marking, the user shall return the cylinder to the supplier without using it.

(2) A location used for the storage of gases in cylinders shall be provided with a chart identifying the various gases according to the colors employed. This chart shall be prominently displayed. A similar chart shall be prominently displayed in the vicinity of a pipeline used for the distribution of oxygen and nitrous oxide.

(3) A cylinder shall be properly fastened. Only a cylinder connected to approved apparatus for administration of gases shall be used, stored, or maintained in an anesthetizing location.

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(4) A cylinder containing compressed gases, or a can containing a volatile liquid, shall be kept away from a radiator, steam pipe, and like sources of heat. A cylinder containing flammable gases and a can containing flammable liquids shall be kept out of proximity to a cylinder containing oxidizing gases through the use of a separate room. Combustible material, such as wood and fabric, except a cylinder shipping crate, shall not be stored or kept near a cylinder containing oxygen or nitrous oxide.

(5) Oil, grease, or readily combustible material shall not be permitted to come in contact with a gas cylinder, valve, regulator, gauge, or fitting.

(6) A regulator, fitting, or gauge shall not be lubricated with oil or other combustible substances.

(7) An oxygen cylinder or apparatus shall not be handled with oily hands, greasy gloves, or rags.

(8) Particles of dust and dirt shall always be cleared from the opening to a cylinder by slightly opening and closing the valve before applying a fitting to a cylinder.

(9) Anesthetic apparatus shall not be brought to a patient area or room without first opening the high pressure valve on the oxygen cylinder.

(10) Oxygen shall not be permitted to enter the regulator suddenly. A user shall open the valve slowly. When opening the valve, the face of the gauge or regulator shall be pointed away from the operator.

(11) An oxygen cylinder shall not be used as a hanger for material, such as a hospital gown, mask, cap, or similar item.

(12) A fitting, valve, regulator, or gauge designed for 1 particular gas shall not be used for another service.

(13) Gases shall not be mixed in an oxygen cylinder or other type of cylinder. This shall not preclude the use of gases which are premixed by the manufacturer.

(14) Oxygen shall not be used from a cylinder, except through a pressure-reducing regulator.

(15) A regulator which is in need of repair, or a cylinder having a valve which does not operate properly, shall not be used.

(16) Defective oxygen equipment shall not be repaired unless by a person properly qualified by knowledge and experience.

(17) A cylinder which is style "m" or larger shall be moved only by an appropriate dolly truck, with the cylinder properly capped and secured.

(18) Gas shall be in compliance with R 29.1280, except that subrules (1), (4), and (5) do not apply unless the inspecting authority demands an updating to correct a questionable condition.

History: 1954 ACS 100, p. 43, Eff. July 18, 1979.

R 29.1425 Cylinders for compressed gas.

Rule 425. (1) A cylinder containing compressed gas shall be constructed in compliance with those regulations of the department of transportation or the American society of mechanical engineers as are in effect on the date of manufacture.

(2) A cylinder containing compressed gas shall be clearly marked with the name of the gas contained therein. A small cylinder containing compressed gas, which is 4½ inches in diameter by 25 inches long, or smaller, shall also bear color markings to indicate the nature of the gas contained therein, which markings shall be applied to the shoulder of the cylinder so as to be clearly visible from above. The color marking shall be as follows:

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Gas	Color Marking
Oxygen	Green
Carbon dioxide	Gray
Nitrous oxide	Light blue
Cyclopropane	Orange
Helium	Brown
Ethylene	Red
Carbon dioxide and oxygen	Gray and green
Helium and oxygen	Brown and green
Nitrogen	Yellow

(3) A cylinder having a highly polished surface to which paint will not adhere shall be marked by a label or a metallic tag of the proper color.

(4) A gas cylinder shall not be filled in a hospital or institution building.

History: 1954 ACS 100, p. 44, Eff. July 18, 1979.

R 29.1426 Casters.

Rule 426. A patient bed and supportive equipment necessary to sustain life shall be equipped with roller casters at floor contact. The casters shall be freewheeling and not less than 2 inches in diameter, except that these requirements shall not apply to a facility licensed solely for ambulatory patients.

History: 1954 ACS 100, p. 44, Eff. July 18, 1979.

R 29.1427 Electrostatic protection.

Rule 427. In order to provide electrostatic protection, flooring, furniture, covers and sheeting, rubber accessories, parts and tubing, belting, plastics, mechanical intercoupling, persons, testing, and maintenance shall be in compliance with national fire protection association pamphlet no. 56A, standard for the use of inhalation anesthetics, 1978. Weekly inspections to assure compliance are recommended. Monthly inspections, however, shall be required and a record shall be maintained for a period of 1 year.

History: 1954 ACS 100, p. 44, Eff. July 18, 1979.

R 29.1428 Transfer and handling of flammable liquids.

Rule 428. (1) The drawing off of flammable liquids from containers of more than 10 gallons shall be by means of a tight-fitting pump. The handling of flammable liquids in containers, other than as listed in R 29.1258, shall be in approved safety cans.

(2) Discharge of flammable liquids from a tank or a container by means of pneumatic pressure on the tank or container is prohibited.

(3) When a flammable liquid is transferred from 1 container or tank to another vessel, there shall be an effective connection between the vessels so as to prevent the accumulation of a static charge.

History: 1954 ACS 100, p. 44, Eff. July 18, 1979.

R 29.1429 Bulk oxygen system operating instructions and maintenance.

Rule 429. (1) For an installation which requires operation of equipment by the user, legible instructions shall be maintained at the operating location.

(2) A bulk oxygen system installed on a consumer's premises shall be periodically inspected and maintained by a qualified representative of the oxygen supplier.

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(3) Weeds and long, dry grass shall be cut back within 15 feet of a bulk oxygen storage container.

History: 1954 ACS 100, p. 45, Eff. July 18, 1979.

R 29.1430 Training program.

Rule 430. A hospital or institution shall formulate a training program for instruction of staff and employees in the use of first aid fire fighting equipment.

History: 1954 ACS 100, p. 45, Eff. July 18, 1979.

R 29.1431 Smoking.

Rule 431. (1) Smoking shall not be permitted in a hazardous room, or in a room, ward, or compartment where oxygen is used or stored. The room shall be posted with a sign which states: NO SMOKING—DANGEROUS GASES IN USE.

(2) Smoking by a patient who cannot be considered responsible for his own safety or that of others shall be permitted only by the patient's doctor, and then only if a responsible nonpatient adult is present in the room.

(3) Smoking shall be permitted where ash trays of noncombustible material are provided, unless prohibited by subrules (2) and (3).

History: 1954 ACS 100, p. 45, Eff. July 18, 1979.

R 29.1432 Nursing home staffing.

Rule 432. A nursing home shall have staffing in compliance with the requirements of the department of public health.

History: 1954 ACS 100, p. 45, Eff. July 18, 1979.

R 29.1433 Homes for the aged; attendants.

Rule 433. (1) A home for the aged of fire-resistant construction, or a home of nonfire-resistant construction, protected by an approved automatic detection system or an approved automatic sprinkler system, shall maintain the following ratios of resident capacity to attendants:

(a) Nineteen to 100—2 attendants, awake and fully dressed.

(b) One hundred one to 180—3 attendants, awake and fully dressed.

(c) One hundred eighty-one to 260—4 attendants, awake and fully dressed.

(d) For each additional 80 residents, 1 additional attendant, awake and fully dressed.

(2) Security chart keyed clocks shall be used with numerically numbered key stations installed throughout the corridor system of the building, with a minimum of 2 key stations located 1 at each end of every corridor.

(3) Security rounds shall be key recorded on the charts at least once each hour in each location between the hours of 11:00 p.m. and 7:00 a.m. The facility administration shall keep the key recorded charts on file for 1 year and make them available for review by fire safety inspection authorities.

(4) An attendant as herein required shall be physically and mentally capable of performing the required duties of evacuation. No person, other than the management or an employee of the management, shall be considered as an attendant.

History: 1954 ACS 100, p. 45, Eff. July 18, 1979.

R 29.1434 Evacuation plan.

Rule 434. (1) An approved plan for the protection of patients and residents in the event of fire, and their evacuation from the building or removal to a prescribed area of refuge, shall be formulated by the management of the facility.

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(2) Where, in the opinion of the state fire marshal, the fire department serving the facility is unable to provide a desirable level of assistance, additional attendants above those required in R 29.1433, up to double the requirements, may be called for. The plan shall be posted in places conspicuous to personnel and staff. Employees shall be instructed and kept informed regarding their duties under this plan.

History: 1954 ACS 100, p. 45, Eff. July 18, 1979.

R 29.1435 Aids for fire department service.

Rule 435. (1) Driveways shall be maintained free of obstructions to a building for fire department apparatus use and as required by local fire authorities.

(2) A copy of the plans of a building shall be submitted to the local fire department officials upon their request to enable them to become familiar with the floor plan of a building.

(3) Proper identification shall be placed on the outside of the main building, showing the location of a siamese connection and a standpipe as required by the local fire department.

History: 1954 ACS 100, p. 45, Eff. July 18, 1979.

R 29.1436 Waste containers.

Rule 436. All waste baskets or receptacles shall be constructed of noncombustible material, and, when they exceed a capacity of 2 cubic feet or 15 gallons, shall be equipped with a noncombustible cover.

History: 1954 ACS 100, p. 46, Eff. July 18, 1979.

R 29.1438 Rubbish handling and incinerators.

Rule 438. (1) In an existing hospital or institution, rubbish handling and an incinerator shall not be required to be brought to compliance with R 29.1240 unless the inspecting authority demands an updating to correct a questionable condition.

(2) In an existing hospital or institution a rubbish chute or refuse room shall not be required to be brought to compliance with R 29.1240(4) unless the inspecting authority demands an updating to correct a questionable condition.

History: 1954 ACS 100, p. 46, Eff. July 18, 1979.

R 29.1440 Abatement of fire hazards.

Rule 440. Nothing in these rules shall prevent the ordering of the abatement of a fire hazard not specifically mentioned in these rules.

History: 1954 ACS 100, p. 46, Eff. July 18, 1979.

R 29.1441 Fire; report required.

Rule 441. It shall be the responsibility of the administrative authority of every licensed health care facility, after the occurrence of a fire resulting in loss of life or property, to immediately notify the local fire department of all details of the fire.

History: 1954 ACS 100, p. 46, Eff. July 18, 1979.

EMERGENCY SERVICES DIVISION

STATE ASSISTANCE TO LOCAL POLITICAL SUBDIVISIONS

(By authority conferred on the department of state police by section 19 of Act No. 390 of the Public Acts of 1976, being §30.419 of the Michigan Compiled Laws)

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R 30.1 Definitions.

Rule 1. As used in these rules:

(a) "Applicant" means a political subdivision of the state submitting an application for a grant under section 19 of Act No. 390 of the Public Acts of 1976, being §30.419 of the Michigan Compiled Laws.

(b) "Applicant's agent" means a person authorized by the governing body of a political subdivision of the state to act on behalf of the political subdivision in applying for grants under section 19 of Act No. 390 of the Public Acts of 1976.

(c) "Capital outlay expenditures" means depreciable equipment which costs more than $100.00 and has a life expectancy of 1 year or more.

(d) "County or local coordinator" means a person appointed pursuant to section 9 of Act No. 390 of the Public Acts of 1976 to coordinate emergency planning and services within a county or municipality. In the absence of an appointed person, "county or local coordinator" means the chairman of the county board of commissioners or the chief executive officer of a municipality. "County or local coordinator" includes a civil defense director, civil defense coordinator, emergency services coordinator, or any officer who administers federal and state disaster preparedness and assistance programs at the county or municipal level.

(e) "Department" means the Michigan department of state police.

(f) "Director" means the director of the Michigan department of state police or his authorized representative.

(g) "Disaster" means an occurrence or imminent threat of widespread severe damage, injury, or loss of life or property resulting from a natural or manmade cause, including fire, flood, snow, ice, windstorm, wave action, oil spill, water contamination requiring emergency action to avert danger or damage, utility failure, hazardous peacetime radiological incident, major transportation accident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military or paramilitary action. Riots and other civil disorders are not within the meaning of this term unless they directly result from, and are an aggravating element of, the disaster.

(h) "District coordinator" means the state police emergency services division district coordinator or other authorized representative so designated by the state police district commander.

(i) "Emergency services division" means the emergency services division of the Michigan department of state police.

(j) "Local emergency preparedness plan" means the emergency preparedness plan, including annexes, developed and maintained by the local political subdivision according to standards established by the emergency services division, department of state police.

(k) "Local governing body" means the county board of commissioners or, in case of a municipality, the city council, village council, or township board.

(l) "Municipality" means a city, village, or township.

(m) "Section 19" means section 19 of Act No. 390 of the Public Acts of 1976, being §30.419 of the Michigan Compiled Laws.

History: 1954 ACS 97, p. 5, Eff. Oct. 18, 1978.

R 30.2 Eligibility.

Rule 2. An eligible applicant is a county or a political subdivision within a county which actively maintains a county emergency preparedness plan, with annexes, which has been reviewed and determined to be current and adequate by the department of state police prior to the disaster for which assistance is being

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requested. If the applicant is a municipality with a population of 10,000 or more, or any other population figure that shall be established by statute during the life of these rules, the same requirement shall apply. A municipality with a population of less than 10,000, or any other population figure that shall be established by statute during the life of these rules, is eligible if identified as being included in a county emergency preparedness plan.

History: 1954 ACS 97, p. 6, Eff. Oct. 18, 1978.

R 30.3 Application assistance.

Rule 3. Responsibility for providing information, advice, and assistance to a local government making application for assistance under Act No. 390 of the Public Acts of 1976 rests with the director of the department of state police or his designee.

History: 1954 ACS 97, p. 6, Eff. Oct. 18, 1978.

R 30.4 Standards for applicant and assistance eligibility.

Rule 4. An applicant for state assistance under section 19 shall meet all of the following standards for applicant and assistance eligibility:

(a) Exhaustion of local effort (extraordinary burden) standard A: During the period of disaster, an extraordinary burden shall have been experienced by the applicant if the applicant's local departments or agencies, which were activated for the disaster in accordance with the local emergency preparedness plan, incurred expenses of not less than 140% of the normal budgeted operating funds over a consecutive 5-day period.

(b) Exhaustion of local effort (extraordinary burden) standard B: If the applicant has a disaster contingency fund set up to cover disaster expenses and the fund is exhausted during the state of disaster for which assistance is being requested, the requirements of subdivision (a) do not have to be fulfilled.

(c) County plan standard: If an applicant is a county, the local emergency preparedness plan and annexes shall incorporate the disaster relief forces of applicable county agencies and those of the municipalities within the county that have populations less than 10,000, or any other population figure that shall be established by statute during the life of these rules. The local emergency preparedness plan shall be considered official upon bearing the signature of the chairman of the county board of commissioners.

(d) Municipal plan standard A: If the applicant is a municipality with a population of 10,000 or more, or any other population figure that shall be established by statute during the life of these rules, with an appointed local coordinator in accordance with section 9 of Act No. 390 of the Public Acts of 1976, the local emergency preparedness plan and annexes shall incorporate the applicable disaster relief forces of the municipality. The local emergency preparedness plan shall be considered official upon bearing the signature of the chief executive of the municipality.

(e) Municipal plan standard B: If the applicant is a municipality with a population of 10,000 or more, or any other population figure that shall be established by statute during the life of these rules, with or without a local coordinator appointed in accordance with section 9 of Act No. 390 of the Public Acts of 1976, the municipality shall be considered as having a municipal emergency preparedness plan for the purpose of section 19, if the municipality has either a separate plan designed to be in support of the county plan or the municipal disaster relief forces are included in the county plan. Under either alternative, the plan title shall incorporate the name of the municipality and the

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plan shall be considered official upon bearing the signatures of both the chairman of the board of commissioners and the chief executive of the municipality.

(f) Current plan standard: The applicant's local emergency preparedness plan and annexes shall be on file with the emergency services division and the plan and annexes shall not contain receipt dates older than 2 years before the state of disaster declaration for which assistance is being requested.

(g) Adequate plan standard: The applicant's local emergency preparedness plan and annexes shall be reviewed by the emergency services division and determined to be adequate upon meeting all applicable functional requirements contained in emergency services division form ES-18 entitled, worksheet for analyzing local emergency preparedness plans.

(h) Plan implementation standard: The applicant's local emergency preparedness plan shall have been implemented in a timely manner at the beginning of the disaster. Evidence of the plan implementation shall be in the message format contained on page 32, disaster handbook no. C2, damage assessment, July, 1977, published by the emergency services division.

(i) Reimbursement standard: Reimbursement to the applicant under section 19 shall only be claimed for the following: Overtime for police, fire, public works, county road commission, rescue squads, or related emergency agencies; contracts with other jurisdictions over and above normal contracts; shelter supplies used during disaster; fuel for equipment used; repair costs for equipment damaged as a result of use during the disaster or equipment repaired so that it can be utilized for the disaster; necessary costs for volunteers; costs to repair public buildings or facilities damaged during the disaster; salaries of additional employees hired for the disaster period; or for other needs required specifically for the mitigation of the effects of, or in response to, the disaster. Reimbursement shall not be claimed for the following: Normal or day-to-day expenses during the disaster period; any costs which are reimbursed in whole or in part by a federal or state agency; any capital outlay expenditure; and any other expense not specifically required for the mitigation of the effects of, or in response to, the disaster.

(j) Substantiation of claims standard: The applicant shall make available, upon request of a damage survey team established by the emergency services division, any applicable financial records, including, but not limited to, purchase orders, invoices, checks, vouchers, requisitions, repair estimates, repair bills, and other documents which will substantiate the damages claimed.

(k) Damage assessment standard: The applicant shall employ the damage assessment procedure contained in pages 3 to 12 and pages 32 to 42 of disaster handbook no. C2, damage assessment, July, 1977, as published by the emergency services division.

History: 1954 ACS 97, p. 6, Eff. Oct. 18, 1978.

R 30.5 Assistance grant; maximum amount.

Rule 5. Assistance grants under this program shall not exceed $20,000.00 or 10% of the total annual operating budget for the preceding fiscal year of the political subdivision, whichever is less. Duplicate financial assistance is prohibited.

History: 1954 ACS 97, p. 7, Eff. Oct. 18, 1978.

R 30.6 Resolution; acceptance; conditions.

Rule 6. Before a resolution prescribed by section 19 is accepted, the governor shall have declared a state of disaster and it shall have been determined that federal assistance is not available. When these conditions are met, local political

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subdivisions shall receive notification from the district coordinator through the county or local coordinator.

History: 1954 ACS 97, p. 7, Eff. Oct. 18, 1978.

R 30.7 Resolution; adoption; format; application form.

Rule 7. Upon notification that federal assistance is not available, the governing body of the local political subdivision shall apply for an assistance grant by adopting a resolution and completing application form ES-19, which shall be furnished by the department. The resolution shall certify the following: That the local emergency preparedness plan was implemented in a timely manner at the beginning of the disaster, the purpose for which assistance is requested, an explanation of the extent of damage sustained based on procedures established by the emergency services division, and that local disaster efforts were exhausted. The resolution shall follow the following format:

WHEREAS (local political subdivision), Michigan is a political subdivision within the State of Michigan with an official emergency preparedness plan in compliance with section 19 of the emergency preparedness act, Act 390, Public Acts of 1976.

WHEREAS (local political subdivision), sustained severe losses of major proportions brought on by the (describe type of disaster; i.e., tornado, flood, explosion, etc.) resulting in the following conditions: (describe in brief, general terms).

WHEREAS the (local political subdivision) certifies that the (name of county—required only if population is less than 10,000, or any other population figure that shall be established by statute during the life of these rules) emergency preparedness plan was implemented at the onset of the disaster at (time/date plan implemented) and all applicable disaster relief forces identified therein were exhausted.

WHEREAS, as a direct result of the disaster, public damage and expenditures were extraordinary and place an unreasonably great financial burden on (local political subdivision) totaling (dollar value of public damage and expenditures).

NOW, THEREFORE BE IT RESOLVED THAT (name of governing body of the political subdivision) requests the Governor authorize a grant to the (local political subdivision) from the state disaster contingency fund pursuant to section 19, Act 390, Public Acts of 1976,

FURTHERMORE (name of applicant's agent) is authorized to execute for and in behalf of (local political subdivision) the application for financial assistance and to provide to the state any information required for that purpose.

Action taken and incorporated in the
minutes of a meeting of
(name of governing body)
on _____
(Date)

Attest: _____ (County/city/township clerk)

Applicant's Agent _____
(Signature) (Position)

History: 1954 ACS 97, p. 7, Eff. Oct. 18, 1978.

R 30.8 Resolution and application; submission to district coordinator.

Rule 8. The resolution and completed application form ES-19 shall be submitted to the district coordinator within 20 days following notification that applications are being accepted.

History: 1954 ACS 97, p. 8, Eff. Oct. 18, 1978.

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R 30.9 Application; administration; agent.

Rule 9. The local governing body shall appoint an agent to act on behalf of the local political subdivision in the administration of the application.

History: 1954 ACS 97, p. 8, Eff. Oct. 18, 1978.

R 30.10 Application; transmittal by district coordinator to director.

Rule 10. An application deemed to be complete by the district coordinator shall be forwarded to the director or his authorized representative.

History: 1954 ACS 97, p. 8, Eff. Oct. 18, 1978.

R 30.11 Application; review by emergency services division.

Rule 11. An application received by the director shall be reviewed by the emergency services division to:

(a) Determine whether the applicant is a local political subdivision.

(b) Verify that the applicant's emergency preparedness plan was current and adequate prior to the disaster.

(c) Determine if damage estimates submitted by the applicant are based on standard procedures recommended by the emergency services division.

(d) Verify disaster damages and expenses claimed by the applicant. Damage survey teams shall be established by the emergency services division for this purpose based upon the requirements of the disaster. The initial contact point for a damage survey team shall be the applicant's agent. The applicant's agent shall present the damage survey team with documentation of disaster damages and expenses upon request.

History: 1954 ACS 97, p. 8, Eff. Oct. 18, 1978.

R 30.12 Application; transmittal to governor.

Rule 12. Upon completion of eligibility checks and damage surveys, the application shall be forwarded to the governor with a recommendation from the director.

History: 1954 ACS 97, p. 8, Eff. Oct. 18, 1978.

R 30.13 Action by governor.

Rule 13. Each request shall be acted on by the governor.

History: 1954 ACS 97, p. 8, Eff. Oct. 18, 1978.

R 30.14 Approved application; transmittal by governor to director.

Rule 14. An application approved by the governor shall be forwarded to the director.

History: 1954 ACS 97, p. 8, Eff. Oct. 18, 1978.

R 30.15 Application; identification and account number; fund verification.

Rule 15. Each application shall be assigned an identification and account number by the director and forwarded to the department of management and budget for fund verification.

History: 1954 ACS 97, p. 9, Eff. Oct. 18, 1978.

R 30.16 Grant; check.

Rule 16. The department of treasury shall print, issue, and mail a check for the approved grant amount to the applicant's agent.

History: 1954 ACS 97, p. 9, Eff. Oct. 18, 1978.

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R 30.17 Grant; utilization.

Rule 17. The applicant may utilize the grant in any manner. However, the applicant shall document that the expenses for which the grant serves as reimbursement were incurred in the response to the disaster.

History: 1954 ACS 97, p. 9, Eff. Oct. 18, 1978.

R 30.18 Grant; disposition; report to district coordinator.

Rule 18. Upon final disposition of the grant, the applicant's agent shall submit a report to the district coordinator with documentation that the grant was expended in accordance with R 30.17.

History: 1954 ACS 97, p. 9, Eff. Oct. 18, 1978.

R 30.19 District coordinator; report to director.

Rule 19. The district coordinator shall submit a report to the director verifying the grant was expended in accordance with R 30.17 or recommending that the grant be audited.

History: 1954 ACS 97, p. 9, Eff. Oct. 18, 1978.

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DEPARTMENT OF MILITARY AFFAIRS

OFFICE OF ADJUTANT GENERAL

RENTAL OF ARMORIES AND GROUNDS

(By authority conferred on the adjutant general by sections 107, 336, and 354 of Act No. 150 of the Public Acts of 1967, being §§32.507, 32.736, and 32.754 of the Michigan Compiled Laws)

R 32.1 Eligibility.

Rule 1. (1) The department of military affairs may grant the use of armory buildings or grounds or both to the following groups:

(a) War veterans organizations.

(b) Government agencies.

(c) Military units of the Michigan national guard.

(d) Private organizations, both profit and nonprofit.

(e) Private individuals.

(2) Facilities shall not be rented if the proposed rental period would conflict with scheduled training periods or other national guard functions.

History: 1954 ACS 57, p. 5, Eff. Feb. 14, 1969.

R 32.2 Long-term rentals.

Rule 2. Rentals of 15 or more consecutive or nonconsecutive days shall be advertised for bids when there are 2 or more parties interested in the same period of time. The highest bidder shall be awarded the use of the facility as described if he meets all other requirements.

History: 1954 ACS 57, p. 5, Eff. Feb. 14, 1969.

R 32.3 Rentals and security deposits.

Rule 3. (1) Rental charges where applicable for use of the facilities shall be established and periodically reviewed by the department of military affairs.

(2) A lessee shall forfeit all advance rentals if the agreement is cancelled within 30 days of the rental, except that the department comptroller may authorize return of an advance rental if the events leading to the cancellation were beyond the control of the lessee.

(3) Security deposits against damage to the facilities may be required when, in the opinion of the department, the type of rental warrants such a deposit.

History: 1954 ACS 57, p. 5, Eff. Feb. 14, 1969; 1954 ACS 92, p. 5, Eff. Aug. 31, 1977.

R 32.4 Concession rights and parking.

Rule 4. The department of military affairs shall retain all concession rights unless specifically granted to the lessee. The use of parking areas shall remain the exclusive domain of the department unless specifically granted to the lessee.

History: 1954 ACS 57, p. 5, Eff. Feb. 14, 1969.

R 32.5 Compliance with law, ordinances, and rules; use of liquor.

Rule 5. (1) A lessee shall comply with all the laws of the state of Michigan and the pertinent ordinances of any city in which the facilities are located.

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(2) Alcoholic beverages may be served or used by a lessee in accordance with the published directives of the adjutant general and within the rules of the Michigan liquor control commission and local ordinances.

History: 1954 ACS 57, p. 5, Eff. Feb. 14, 1969.

R 32.6 Subletting of premises.

Rule 6. A lessee shall not sublet any part of the facilities without prior written consent of the lessor.

History: 1954 ACS 57, p. 5, Eff. Feb. 14, 1969.

R 32.7 Structural changes and housekeeping.

Rule 7. (1) A lessee shall discuss with and secure approval of the department of military affairs representative before any electrical wiring, decorations and partitions or other structural changes are made in any rented building or grounds or both.

(2) A lessee, upon termination of occupancy, shall clean the facilities and dispose of all refuse and other material resulting from the use of the facilities unless other provisions are made with the lessor.

History: 1954 ACS 57, p. 5, Eff. Feb. 14, 1969.

DEPARTMENT ORGANIZATION AND GENERAL FUNCTIONS

(By authority conferred on the department of military affairs by sections 33 and 63 of Act No. 306 of the Public Acts of 1969, being §§24.233 and 24.263 of the Michigan Compiled Laws)

PART 1. OFFICE OF THE ADJUTANT GENERAL AND DIRECTOR

R 32.11 Director; adjutant general; office of the director; authority; staff.

Rule 1. The chief executive in the department of military affairs is the director, who also serves as adjutant general. Appointed by, and serving at the pleasure of, the governor, the adjutant general is also the commanding general of the Michigan national guard. The office of the director is the hub of policymaking for the department and maintains offices in Lansing. His office affects the overall department and derives its authority from the constitution, Act No. 380 of the Public Acts of 1965, as amended, being §§16.225 to 16.228 of the Michigan Compiled Laws, popularly referred to as the executive organization act of 1965, and other laws assigned specifically to the adjutant general or director for administration. The director has a small staff to which is assigned specific responsibilities in program areas that are vital to his responsibility as the chief officer. The director and the various component divisions within the department of military affairs cooperate with all state and local agencies in the implementation of their assigned responsibilities and, more specifically, with the department of state police in rendering military support to civil authority in time of emergency under order of the governor.

History: 1954 ACS 93, p. 13, Eff. Dec. 13, 1977.

R 32.12 State military board.

Rule 2. The state military board, created by Act No. 150 of the Public Acts of 1967, being §§32.760 to 32.790 of the Michigan Compiled Laws, consists of 5 persons appointed by the governor who are responsible for holding title to military lands and acting on associated real property matters. Title to the Hanson military reservation at Camp Grayling, Michigan, is vested in this board.

History: 1954 ACS 93, p. 13, Eff. Dec. 13, 1977.

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R 32.13 Request for promulgation of a rule.

Rule 3. A person requesting the department of military affairs, or a division thereof, to promulgate a rule shall do so by filing a written request in the office of the director. In addition to the content specifically directed toward rule promulgation, the request shall include the signature and address of the person making the request. After receipt of a correctly filed request, the department shall, within 90 days, initiate the processing of a rule or issue a concise written statement of its principal reasons for denial of the request, which shall be sent by certified mail to the person who made the request.

History: 1954 ACS 93, p. 14, Eff. Dec. 13, 1977.

R 32.14 Request for declaratory ruling.

Rule 4. An interested person requesting a declaratory ruling as to the applicability to an actual state of facts of a statute, rule, or order administered or issued by the department of military affairs shall do so by filing a written request in the office of the director. In addition to the content specifically directed toward the declaratory ruling, the request shall include the signature and address of the person making the request. After receipt of a correctly filed request, the department shall, within 30 days, notify the person who made the request by certified mail whether a declaratory ruling shall be issued, and if it is to be issued, the nature and details thereof.

History: 1954 ACS 93, p. 14, Eff. Dec. 13, 1977.

R 32.16 Military justice.

Rule 6. Military justice for persons in the Michigan national guard, but not in the service of the United States, and for persons in the Michigan defense force, when it is in existence, shall be dispensed pursuant to Act No. 297 of the Public Acts of 1957.

History: 1954 ACS 93, p. 14, Eff. Dec. 13, 1977.

PART 2. ARMY NATIONAL GUARD DIVISION

R 32.21 Staff functions, sections, and programs.

Rule 21. The army national guard (ARNG) division performs the major staff functions incident to its administration of those activities primarily directed toward army national guard readiness. The division plans, directs, supervises, and coordinates the army national guard programs in this state. The division chief executive has a dual title of deputy director and assistant adjutant general for army. The sections and programs within the division are as follows:

(a) Commanding general and chief of staff.
(b) Army technician program.
(c) Federal equipment maintenance.
(d) Army aviation support facility.
(e) Armory post commanders.
(f) Training sites.

History: 1954 ACS 93, p. 14, Eff. Dec. 13, 1977.

R 32.22 Chief of staff section; functions, programs, and activities.

Rule 22. The chief of staff section reviews, evaluates, and recommends changes in programs, plans, policies, and operating procedures of the Michigan army national guard. The section facilitates the active army annual general inspection program of Michigan units and coordinates the state army national

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guard command inspection program. The major staff functions, programs, and activities under the purview of the chief of staff are as follows:

(a) The army national guard personnel section, which fulfills the personnel needs of the Michigan army national guard under provisions outlined in federal and state national guard regulations.

(b) The plans, operations, training, and military support to civil authority section, whose major areas of endeavor include the functional areas of training plans and performance evaluation; facilitating national guard bureau directives regarding organization, reorganization, and mobilization; program measures involving physical security of armories and training sites; and coordinating the planning and execution of military support to civil authority.

(c) The Michigan military academy, which administers the state officer candidate, noncommissioned officer candidate, and selected leadership programs.

(d) All Michigan army national guard units are subordinate to the army division and report to and through successively higher headquarters to the command element serviced by the chief of staff section.

History: 1954 ACS 93, p. 14, Eff. Dec. 13, 1977.

R 32.23 Army technician program.

Rule 23. The army national guard division is responsible for coordinating the army technician program administered and influenced by the technician personnel office for full-time department of military affairs' army division federal employees.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.24 State maintenance office.

Rule 24. The state maintenance office is responsible for administering a continuing maintenance program for surface equipment issued to the Michigan army national guard. Headquartered in Lansing, the state maintenance office utilizes a central facility for major and specialized maintenance and a number of organizational maintenance shops dispersed throughout the state for the performance of routine and scheduled service.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.25 Army aviation support facility.

Rule 25. The army aviation support facility, focal point of the army division's national guard flight program, exercises primary supervision over the major aviation activities of flight operations, safety, and maintenance.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.26 Armory post commander.

Rule 26. All armories have a post commander appointed to insure that the facility is managed and maintained according to prescribed standards.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.27 Training sites.

Rule 27. Training sites exist to provide training and logistical support required by military forces during weekend and annual training periods.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

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PART 3. AIR NATIONAL GUARD DIVISION

R 32.31 Staff functions, sections, facilities, and programs.

Rule 31. The air national guard (ANG) division directs the major staff functions incident to its administration of those activities and facilities directed to or facilitating Michigan air national guard readiness. The division is responsible for planning, directing, coordinating, and supervising state air national guard programs. The division chief executive carries a multiple title of deputy director, assistant adjutant general for air, and commanding general of Michigan air national guard headquarters. All Michigan air national guard units are subordinate to the air division and report to and through successively higher headquarters to the air division command element. The principal sections, facilities, and programs under division jurisdiction are as follows:

(a) Air (ANG) personnel.
(b) Air technician program.
(c) Operations and training.
(d) Air bases and training sites.
(e) Internal audit.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.32 Personnel section.

Rule 32. The ANG personnel section fulfills the personnel needs of the Michigan air national guard under provisions outlined in federal and state military regulations and directives.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.33 Air technician program.

Rule 33. The air national guard division is responsible for coordinating the air technician program administered and influenced by the technician personnel office for full-time department of military affairs' air division federal employees.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.34 Operations and training.

Rule 34. The operations and training element of the air division facilitates national guard bureau directives regarding organization, reorganization, and mobilization; effects training guidance and performance evaluation; and maintains liaison with the several major Michigan air national guard command headquarters.

History: 1954 ACS 93, p. 15, Eff. Dec. 13, 1977.

R 32.35 Installations.

Rule 35. There are 3 major air national guard installations in Michigan:

(a) Selfridge air national guard base, located near Mt. Clemens, and Battle Creek air national guard base are the home stations for the major Michigan air national guard units. Both facilities, in conjunction with tenant units, are capable of providing necessary administration, supply, maintenance, medical, and mission support functions.

(b) Phelps Collins air national guard base in Alpena is operated and maintained for annual training encampments, deployment exercises, gunnery exercises, and combat maneuvering.

History: 1954 ACS 93, p. 16, Eff. Dec. 13, 1977.

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R 32.36 Internal audit services.

Rule 36. Internal audit services are performed for the department of military affairs under the direction of a deputy director. Auditing efforts are directed toward accountability and departmental compliance with prescribed policies, rules, regulations, procedures, and statutes concerning the expenditure and disposition of state funds.

History: 1954 ACS 93, p. 16, Eff. Dec. 13, 1977.

PART 4. COMPTROLLER DIVISION

R 32.41 Staff functions and sections.

Rule 41. The comptroller division performs the major staff functions incident to obtaining, administratively controlling, and accounting for state funds needed to provide resources for the department and assists in the overall management of people, materiel, resources, and facilities. The primary sections within the comptroller division are as follows:

(a) Administrative services.
(b) Engineering and facilities.
(c) Fiscal and procurement.
(d) Management services.

History: 1954 ACS 93, p. 16, Eff. Dec. 13, 1977.

R 32.42 Administrative services section.

Rule 42. The administrative services section has primary responsibility in the functional areas of office management, state personnel, state payroll, property accounting, and the transportation work unit. Administration and information regarding Michigan military service bonus programs for world war I, world war II, Korean conflict, and the Vietnam era are coordinated by, or provided through, this section. The section fulfills the personnel needs of the department of military affairs and works with the department of civil service on personnel matters and the department of management and budget to effect payroll transactions. The section administers a logistics management program for the receipt, warehousing, and distribution of all state supplies, materials, and equipment as well as operating a departmental motor pool of state-owned vehicles. Additional office services include central stock and mailroom. The section maintains offices in Lansing.

History: 1954 ACS 93, p. 16, Eff. Dec. 13, 1977.

R 32.43 Engineering and facilities section.

Rule 43. The engineering and facilities section provides technical support to the department of military affairs and the installations under its control. Programming, planning, construction, supervision, inspection, and overall management of the construction, remodeling and additions, and maintenance programs are provided for by this section for both army and air national guard facilities. The section develops construction and maintenance programs and prepares budget requests for both federal and state funds based upon these programs. The section is responsible for the acquisition of real property for new armories, the licensing of federal property, and the rental or leasing of property for armories and vehicle storage. The section works with the department of management and budget on matters concerning state-owned facilities, and with the national guard bureau and other federal agencies on matters concerning federal projects. The engineering and facilities section has an internal work unit responsible for the review, processing, and action on all reports of survey for lost or destroyed United

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States army, air force, and state of Michigan property. The work unit also investigates all department accidents or reportable incidents and advises the adjutant general regarding their disposition. The engineering and facilities section maintains offices in Lansing.

History: 1954 ACS 93, p. 16, Eff. Dec. 13, 1977.

R 32.44 Fiscal and procurement section.

Rule 44. The fiscal and procurement section's primary responsibility is to provide financial control of expenditures through its administrative and cost accounting program. The section consists of 3 work units: budget and accounting, revenue, and purchasing. The budget and accounting and revenue units are responsible for accounting, recording, and reporting on the status of funds within the department. The purchasing unit is responsible for purchasing or contracting for all supplies, materials, services, and equipment needed in the maintenance and operation of all state-supported department of military affairs facilities. The fiscal and procurement section maintains close liaison with the department of management and budget and legislative agencies, and is the principal coordinating staff section regarding departmental budget preparation. The section maintains offices in Lansing.

History: 1954 ACS 93, p. 17, Eff. Dec. 13, 1977.

R 32.45 Management services section.

Rule 45. The management services section provides staff services and performs project support functions which are deemed external to established major staff section responsibilities.

History: 1954 ACS 93, p. 17, Eff. Dec. 13, 1977.

PART 5. UNITED STATES PROPERTY AND FISCAL OFFICER

R 32.51 United States property and fiscal officer.

Rule 51. The United States property and fiscal officer is responsible for equipping, supplying, and maintaining national guard units in Michigan in behalf of the federal government. His offices in Lansing perform the major staff functions incident to obtaining, administratively controlling, and accounting for federal funds and materiel directed toward servicing state national guard units.

History: 1954 ACS 93, p. 17, Eff. Dec. 13, 1977.

PART 6. MICHIGAN DEFENSE FORCE

R 32.61 Michigan defense force.

Rule 61. If the president calls or orders all or part of the national guard into federal service in time of a national emergency, or if it appears that the national guard may be called into federal service, the governor, as commander-in-chief, may organize within the state military establishment such number of army and air force units as he deems necessary for the adequate protection of the state. These units, known as the Michigan defense force, shall protect the state in case of insurrection, invasion, disaster, or other emergency, actual or imminent. The Michigan defense force shall be governed by rules and regulations similar to those governing the national guard.

History: 1954 ACS 93, p. 17, Eff. Dec. 13, 1977.

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DEPARTMENT OF MANAGEMENT AND BUDGET

VETERANS' TRUST FUND BOARD OF TRUSTEES

PROCEDURE FOR APPEALS AND HEARINGS

(By authority of Act No. 197 of the Public Acts of 1952, as amended, and section 4(c) of Act No. 9 of the Public Acts of the First Extra Session of 1946, being §§24.101 et seq. and 35.601 et seq. of the Michigan Compiled Laws)

R 35.1 Appeal; hearing.

Rule 1. When a veteran advises a county committee that he considers himself aggrieved at their decision and desires to appeal to the board of trustees, he shall be advised by the county committee at the time of filing his appeal that he may appear before the board for a hearing in person or by duly authorized representative, at his own expense.

History: 1954 ACS 24, p. 5, Eff. Nov. 12, 1960.

R 35.2 Request to appeal.

Rule 2. The request to appeal shall be made in writing to the board of trustees within 10 days after receipt of the decision of the county committee, either directly to the board or through the county committee, and shall contain an accurate statement of the facts pertaining to his application, together with a statement as to whether or not a personal hearing is desired.

History: 1954 ACS 24, p. 5, Eff. Nov. 12, 1960.

R 35.3 Submission of new evidence.

Rule 3. Upon receipt of appeal, the executive secretary of the Michigan veterans' trust fund board of trustees shall request the appellant to submit within 10 days any new and material evidence that he may have to support his claim.

History: 1954 ACS 24, p. 5, Eff. Nov. 12, 1960.

R 35.4 Notice to county committee.

Rule 4. County committees will be notified of the receipt of appeal by the board of trustees, advised as to whether or not a hearing is requested, and asked to submit any additional evidence that may be available.

History: 1954 ACS 24, p. 5, Eff. Nov. 12, 1960.

R 35.5 Referral of appeal to board of trustees.

Rule 5. If no new evidence is submitted within the period of time prescribed (10 days), the appeal will be referred to the board of trustees. If a personal hearing is requested, the appellant and the county committee shall be notified of the date, time and place of the meeting of the board at which the appellant is to appear for such hearing. If a personal hearing is not requested, the appeal shall be referred to the board for consideration at the earliest possible time for decision on the record as submitted.

History: 1954 ACS 24, p. 5, Eff. Nov. 12, 1960.

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R 35.6 Results of appeal; copies.

Rule 6. The original signed copy of the results of the appeal will be retained by the board of trustees, a copy will be forwarded for the files of the county committee concerned, and a copy furnished to the appellant.

History: 1954 ACS 24, p. 5, Eff. Nov. 12, 1960.

R 35.7 Compliance with board's decision.

Rule 7. Action to comply with the decision of the board of trustees shall be taken by the county committee within 5 days after receipt of the copy of the results of the appeal.

History: 1954 ACS 24, p. 5, Eff. Nov. 12, 1960.

STUDENT LOANS

R 35.601—R 35.612 Rescinded.

History: 1954 AC, pp. 501-502; rescinded 1954 ACS 49, p. 5, Eff. Feb. 14, 1967.

GRANTS TO ELIGIBLE MICHIGAN VETERANS

(By authority conferred on the veterans' trust fund board of trustees by section 1 of Act No. 9 of the Public Acts of the First Extra Session of 1946, as amended, being §35.601 of the Michigan Compiled Laws)

R 35.621 Need.

Rule 1. Need is defined for the purpose of this act to be any emergency in the life of an honorably discharged world war II or Korean war veteran, or his or her dependents, which requires immediate assistance in order to prevent undue hardship to the veteran, or his or her dependents. The emergencies may involve hospitalization, medical services which cannot be secured from any other federal, state, or county agency, or from any privately owned insurance coverage, food, fuel, clothing, shelter, necessary transportation, or other unforeseen emergencies that require prompt attention.

History: 1944 ACS 35, p. 55; 1954 AC, p. 502.

R 35.622 Eligibility of veteran or dependents, or both.

Rule 2. Eligibility of the veteran, or his or her dependents, or both, shall be as specified in section 2, Act No. 9 of the Public Acts of 1946, Extra Session, as amended.

". . . for the purposes of the administration of this act, dependents shall be considered to be any persons legally entitled to look to the veteran for his or her support." (Sec. 4, Act No. 9, Public Acts of 1946, Extra Session, as amended.)

History: 1944 ACS 35, p. 55; 1954 AC, p. 502.

R 35.623 Eligibility of deceased veteran's dependents.

Rule 3. (1) For the purposes of the administration of Act No. 9, Public Acts of 1946, Extra Session, as amended, it is further determined that the dependents of a deceased veteran are eligible to receive benefits in the same manner as the deceased veteran would have received, were he or she living.

(2) A widow of a veteran is considered a dependent as long as she is unremarried.

History: 1944 ACS 35, p. 55; 1954 AC, p. 502.

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STUDENT LOANS

(By authority conferred on the veterans' trust fund board of trustees by section 1 of Act No. 9 of the Public Acts of the First Extra Session of 1946, as amended, being §35.601 of the Michigan Compiled Laws)

R 35.631 Eligibility.

Rule 1. (1) An applicant for a loan shall be a Michigan veteran as defined in Act No. 9 of the Public Acts of the First Extra Session of 1946, as amended, being §§35.601 to 35.610 of the Michigan Compiled Laws, or his legal dependent or the child of a deceased veteran.

(2) An applicant shall currently be enrolled in school on a full-time basis at a Michigan institution of higher education.

(3) An applicant enrolled in on-the-job training is not eligible for a loan.

(4) An applicant shall show a basis of need of the loan.

History: 1954 ACS 49, p. 5, Eff. Feb. 14, 1967.

R 35.632 Applications and approval.

Rule 2. (1) An applicant shall execute a 180-day non-interest bearing note payable to the state of Michigan - Michigan veterans' trust fund. The note shall be co-signed if the applicant is under 21 years of age.

(2) An application for a loan shall be initially approved by the school authority or its designated agent. Final approval of a loan shall be made by the executive secretary of the veterans' trust fund board of trustees or his designated agent. An applicant shall be notified of the approval or disapproval of his loan.

History: 1954 ACS 49, p. 5, Eff. Feb. 14, 1967.

R 35.633 Dollar limits.

Rule 3. A loan will not be granted in an amount exceeding $600.00. Amounts repaid by the applicant may be later reloaned to him but his total indebtedness at any time shall not exceed $600.00.

History: 1954 ACS 49, p. 5, Eff. Feb. 14, 1967.

R 35.634 Satisfaction of loans.

Rule 4. (1) A loan may be repaid on a partial payment plan when specifically provided for and approved by the executive secretary of the veterans' trust fund board of trustees or his designated agent.

(2) A note may be renewed or extended by such executive secretary or his designated agent.

(3) When a borrower enters the military or peace corps service directly from school, the balance due on his outstanding loan shall become payable 6 months after his separation from such service.

(4) A loan may be canceled in case of the borrower's death, total and permanent disability, or a satisfactory showing of extreme hardship as determined by such executive secretary or his designated agent.

History: 1954 ACS 49, p. 5, Eff. Feb. 14, 1967.

R 35.639 Rescission.

Rule 9. Rules 1 to 12, governing student subsistence loans, being R 35.601 to R 35.612 of the Michigan Administrative Code and appearing on pages 501 and 502 of the 1954 volume of the Code, are rescinded.

History: 1954 ACS 49, p. 5, Eff. Feb. 14, 1967.

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STUDENT GRANTS

(By authority conferred on the veterans' trust fund board of trustees by section 2 of Act No. 245 of the Public Acts of 1935, as amended, being §35.112 of the Michigan Compiled Laws)

R 35.651 Purpose.

Rule 1. The purpose of these rules is to implement Act No. 245 of the Public Acts of 1935, as amended, being §§35.111 and 35.112 of the Michigan Compiled Laws, hereinafter referred to as the act.

History: 1954 ACS 68, p. 6, Eff. Aug. 31, 1971.

R 35.652 Eligibility.

Rule 2. (1) Receipt of the educational benefits under the act shall not be based upon scholastic ability or financial need or be affected by marriage of an applicant or recipient.

(2) A determination of total disability, death in service, or death subsequent to service resulting from wartime causes shall be governed by disability and death awards paid by the United States veterans administration or the United States armed forces therefor. Total disability shall be construed to be any condition or combination of conditions which are rated 100% disabling by the veterans administration or the armed forces of the United States. Wartime periods are those periods defined by Act No. 190 of the Public Acts of 1965, as amended, being §§35.61 and 35.62 of the Michigan Compiled Laws.

History: 1954 ACS 68, p. 6, Eff. Aug. 31, 1971.

R 35.653 Applications and certifications.

Rule 3. (1) An application for determination of eligibility shall not be accepted before an applicant's sixteenth birthday.

(2) A certification of eligibility made by the department of education or its predecessor before April 1, 1966, is valid until the applicant reaches his twenty-third birthday.

History: 1954 ACS 68, p. 7, Eff. Aug. 31, 1971.

R 35.654 Payments.

Rule 4. (1) The letter of eligibility provided by the veterans' trust fund board of trustees shall be submitted to the state tax-supported institution of this state for inclusion in the student's file as authority for the billing of tuition fees to the veterans' trust fund board of trustees.

(2) Tuition shall not be paid for a term or semester ending before receipt of an application for determination of eligibility by the veterans' trust fund board of trustees. Beginning of the term or semester shall be the first day on which classes are held.

(3) Fees shall be paid at the minimum resident rate for basic tuition which includes an athletic fee, matriculation fee, student services fee, general and registration fee, lab fees including applied music fee. Basic tuition fees will also be paid for repeat courses and off-campus study courses.

History: 1954 ACS 68, p. 7, Eff. Aug. 31, 1971.

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DEPARTMENT OF CIVIL RIGHTS

CIVIL RIGHTS COMMISSION

ORGANIZATION, PRACTICE, AND PROCEDURE

(By authority conferred on the civil rights commission by section 29 of article 5 of the state constitution and section 5 of Act No. 45 of the Public Acts of the Second Extra Session of 1963, being §37.5 of the Michigan Compiled Laws)

R 37.1 Civil rights within commission jurisdiction.

Rule 1. The civil rights within the jurisdiction of the commission shall be those guaranteed by law and the constitution including, but not limited to, the areas of equal protection of the laws, employment, education, housing, and public accommodations. The jurisdiction of the commission shall not be limited to the processing of complaints.

History: 1954 ACS 44, p. 5, Eff. Nov. 14, 1965; 1954 ACS 50, p. 5, Eff. May 15, 1967.

R 37.2 Definitions.

Rule 2. As used in these rules:

(a) "Chairperson" means the duly appointed or elected chairperson or a co-chairperson of the civil rights commission or, in the event of his or her or their absence, the acting chairperson designated by the remaining members of the commission.

(b) "Charge" means that document or pleading authorized by the department which initiates a contested case hearing under R 37.12.

(c) "Claimant" means any person who files a complaint or applies to the department for the issuance of a charge.

(d) "Commission" means the state civil rights commission created by article 5, §29, of the Michigan constitution.

(e) "Commissioner" means any member of the civil rights commission.

(f) "Constitution" means the constitution of the state of Michigan.

(g) "Department" means the department of civil rights established by section 475 of Act No. 380 of the Public Acts of 1965, as amended, being §16.575 of the Michigan Compiled Laws.

(h) "Department investigator" means a member, agent, or employee of the department designated or delegated by the director to make an investigation.

(i) "Director" means the director of the department of civil rights engaged by the commission.

(j) "Hearing commissioner" means a commissioner designated by the chairperson or the commission to conduct a hearing.

(k) "Hearing referee" means an agent of the commission designated or delegated by the chairperson or the director to conduct a hearing.

(l) "Party" or "parties" means the claimant or the respondent, or both, and the commission or department, or both, where appropriate.

(m) "Person" means an individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, the state or a political subdivision of the state or an agency thereof, or any other legal or commercial entity.

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(n) "Respondent" means any person against whom the claimant has complained, or against whom the department has issued a charge.

History: 1954 ACS 44, p. 5, Eff. Nov. 14, 1965; 1954 ACS 50, p. 5, Eff. May 15, 1967; 1954 ACS 101, p. 5, Eff. Oct. 18, 1979.

R 37.3 Commission; election and tenure of officers; quorum; voting.

Rule 3. (1) The commission, each January, shall elect from its members by a majority vote of the commission a chairperson or co-chairpersons and such other officers as the commission shall determine, who shall serve during the balance of the calendar year and until their successors have been duly elected and qualified.

(2) A majority of all members of the commission shall constitute a quorum. A majority of all the members shall be required to decide matters of a nonministerial nature, but a majority of a quorum may decide ministerial matters. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

History: 1954 ACS 44, p. 5, Eff. Nov. 14, 1965; 1954 ACS 101, p. 5, Eff. Oct. 18, 1979.

R 37.4 Complaints.

Rule 4. (1) Any person claiming to be aggrieved by unlawful discrimination may by himself or herself or his or her counsel or other agent make, sign, and file with the department a complaint. Assistance in drafting and filing complaints shall be available, without charge, to claimants at all department offices.

(2) Any commissioner, the director, or agent authorized by the commission or director, may initiate, make, sign, and file a complaint.

(3) A complaint shall be in writing, the original being signed and verified before a notary public or other person duly authorized by law to administer oaths and take acknowledgments. Notarial service shall be furnished without charge by the department.

(4) The complaint shall include the following:

(a) The full name and address of the claimant and his or her agent, if any.

(b) The full name and address of the respondent.

(c) The alleged discrimination and a statement of the particulars thereof.

(d) The date or dates of the alleged discrimination, whether the alleged discrimination is of a continuing nature, and the dates between which the continuing discrimination is alleged to have occurred.

(e) A statement as to any other proceeding, civil or criminal, based upon the same facts, occurrences, or transactions as alleged in the complaint, together with a statement as to the status or disposition of the other action. Where such a proceeding is pending, the commission or department may, in its discretion, delay consideration or action on the complaint filed.

(5) The complaint shall be filed with the department at 1 of its offices.

(6) The complaint shall be filed within 180 days from the date of the occurrence of the alleged discrimination, or within 180 days of the date when the occurrence of the alleged discrimination was or should have been discovered. If the alleged discrimination is of a continuing nature, the date of the occurrence of the discrimination shall be deemed to be any date subsequent to the commencement of the discrimination up to and including the date upon which the discrimination shall have ceased.

(7) The complaint may be filed by personal delivery or by mail addressed to 1 of the department's offices.

(8) Complaint forms may be obtained at any of the offices of the department.

(9) A copy of the complaint filed by the claimant shall be delivered or mailed to the respondent.

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(10) The department may require answers to interrogatories, order the submission of books, papers, records, and other materials pertinent to a complaint, and require the attendance of witnesses, administer oaths, take testimony, and compel, through court authorization, compliance with its orders or an order of the commission.

(11) A complaint, or any part thereof, may be withdrawn only on written consent of the commission or department upon such conditions as shall be deemed proper in the circumstances.

History: 1954 ACS 44, p. 6, Eff. Nov. 14, 1965; 1954 ACS 50, p. 5, Eff. May 15, 1967; 1954 ACS 101, p. 6, Eff. Oct. 18, 1979.

R 37.5 Conference and conciliation.

Rule 5. (1) The respondent may be invited, at any time, to participate in a conference and conciliation in an endeavor to eliminate the alleged discrimination, and shall be invited to participate in such a conference prior to the issuance of a charge.

(2) The members of the commission and the department staff shall not disclose what has transpired in the course of such endeavors at conference and conciliation.

(3) If the department shall succeed in its endeavors at conference and conciliation, it shall mark the case accordingly and notify the parties by registered or certified mail, return receipt requested, of the terms of conciliation.

History: 1954 ACS 44, p. 7, Eff. Nov. 14, 1965; 1954 ACS 50, p. 6, Eff. May 15, 1967; 1954 ACS 101, p. 6, Eff. Oct. 18, 1979.

R 37.6 Charge; issuance; refusal to issue.

Rule 6. (1) If, after investigation, the department determines that there are sufficient grounds therefor, a charge shall be issued.

(2) If the department determines that there are insufficient grounds therefor, it shall refuse to issue a charge and shall notify the parties by registered or certified mail, return receipt requested, of the determination and of the refusal, together with the reasons therefor, and of the claimant's right to request reconsideration by the department of the determination within 30 days from the date of mailing, in accordance with R 37.7.

History: 1954 ACS 44, p. 7, Eff. Nov. 14, 1965; 1954 ACS 50, p. 7, Eff. May 15, 1967; 1954 ACS 101, p. 6, Eff. Oct. 18, 1979.

R 37.7 Reconsideration of refusal to issue charge; request; hearing.

Rule 7. (1) A claimant may request of the department a reconsideration of its refusal to issue a charge. The request shall be in writing, state specifically the grounds upon which it is based, and be filed within 30 days after the date of mailing of the notice of disposition of which reconsideration is requested. It shall be filed at any office of the department by personal delivery or by mail.

(2) The department may authorize a hearing on the request for reconsideration at such a time and place and before such hearing commissioner or commissioners or hearing referee or referees as it or the director may determine, and notice thereof shall be given to all parties to the proceedings. The parties may appear in person or by counsel, may present witnesses and testimony, and examine and cross-examine witnesses. Verbatim stenographic notes of the proceedings shall be made and kept by a competent reporter. The hearing commissioner or commissioners or hearing referee or referees shall report to the commission on such proceedings. The commission shall make a determination as to whether the department shall further consider the matter, and notify all parties by registered or certified mail, return receipt requested, and shall issue instructions for appropriate action based upon such determination.

History: 1954 ACS 44, p. 7, Eff. Nov. 14, 1965; 1954 ACS 50, p. 7, Eff. May 15, 1967; 1954 ACS 65, p. 5, Eff. Oct. 1, 1970; 1954 ACS 101, p. 7, Eff. Oct. 18, 1979.

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R 37.8 Charge; form and content.

Rule 8. The charge shall be in writing, in such form and content as the department determines.

History: 1954 ACS 44, p . 7, Eff. Nov. 14, 1965; 1954 ACS 50, p. 7, Eff. May 15, 1967; 1954 ACS 101, p. 7, Eff. Oct. 18, 1979.

R 37.9 Charge; amendment.

Rule 9. The commission on its own motion, on motion of the department, or on motion of the claimant may amend a charge at any time prior to issuance of an order based on the charge.

History: 1954 ACS 44, p. 7, Eff. Nov. 14, 1965; 1954 ACS 50, p. 7, Eff. May 15, 1967; 1954 ACS 101, p. 7, Eff. Oct. 18, 1979.

R 37.10 Charge; service.

Rule 10. Copies of the charge or amended charge shall be delivered or sent by certified or registered mail, return receipt requested, to the parties, together with notice to the respondent to answer the charge as provided in R 37.11.

History: 1954 ACS 44, p. 7, Eff. Nov. 14, 1965; 1954 ACS 50, p. 7, Eff. May 15, 1967; 1954 ACS 101, p. 7, Eff. Oct. 18, 1979.

R 37.11 Answer.

Rule 11. (1) The respondent shall file a written verified answer within 20 days from the date of service of the charge.

(2) The answer shall be filed in duplicate at any office of the department. The filing shall be by personal delivery or by registered or certified mail, return receipt requested.

(3) Upon request, the commission or director may, for good cause shown, extend the time within which the answer may be filed.

(4) The answer shall be in writing, the original being signed and verified by the respondent. The answer shall contain the post office address of the respondent, and if he or she is represented by counsel, the name and post office address of counsel. The answer shall contain a general or specific denial or admission of each and every allegation of the charge, or a denial of any knowledge or information sufficient to form a belief, and a statement of any matter constituting a defense. Any allegation in the charge which is not denied or admitted in the answer, unless the respondent shall state in the answer that he or she is without knowledge or information sufficient to form a belief, shall be deemed admitted.

(5) The respondent shall have the right reasonably and fairly to amend his or her answer:

(a) The respondent's right to amend his or her answer may be exercised at any time up to 10 days before the first hearing, without permission, and thereafter, in the discretion of the hearing commissioner or commissioners, or hearing referee or referees, on application duly made therefor.

(b) Duplicate copies of an amended answer shall be filed with the department.

(6) If an answer is not filed within the time provided for in these rules, each of the allegations in the charge shall be deemed admitted. Upon application, the referee, for good cause shown, may set aside the admission.

(7) The department, within 5 days after the date of filing an answer or amended answer, shall send a copy thereof by registered or certified mail, return receipt requested, to the claimant at his or her last known place of residence or to his or her counsel.

History: 1954 ACS 44, p. 7, Eff. Nov. 14, 1965; 1954 ACS 50, p. 7, Eff. May 15, 1967; 1954 ACS 101, p. 7, Eff. Oct. 18, 1979.

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R 37.12 Hearing.

Rule 12. (1) Upon or after the issuance and service of a charge, the commission or director may schedule and summon the parties to a hearing thereon. The commission may at any time schedule and conduct a hearing with respect to any matter which in the judgment of the commission may involve unlawful discrimination and may warrant investigation by the commission, regardless of whether a charge or a complaint therefor shall have been filed by or with the department.

(2) Notice of the time and place of the hearing shall be mailed or delivered to the parties not less than 20 days prior to the date of the hearing. Upon good cause shown, the commission or director may order a hearing upon shorter notice. However, notice of the time and place of hearing shall be mailed or delivered to the parties not less than 7 days prior to the date of the hearing, unless such notice is waived by each party.

(3) A hearing shall be conducted by 1 or more hearing commissioners, or 1 or more hearing referees, or any combination of hearing commissioners or referees, which hearing commissioners or referees shall hear the evidence and report thereon to the commission.

(4) Unless waived by the hearing commissioners or the hearing referees, the claimant shall be present at the hearing. The respondent may appear at the hearing in person or by counsel, examine and cross-examine witnesses and, if an answer has been filed, may submit oral testimony and other evidence in support of the answer.

(5) Hearings shall be held at a place designated by the commission or director having due regard for the convenience of the parties and witnesses.

(6) The case in support of the charge shall be presented at the hearing by the department's counsel or by a member of the department's staff, or upon notice from claimant, by the claimant or his or her counsel, subject, however, to the right of the department to present other or additional evidence or argument.

(7) Hearing commissioners or referees shall have full authority to control the procedure of the hearing, to admit or exclude testimony or other evidence without regard to strict rules of evidence, and to rule upon all motions and objections:

(a) On their own motion, or at the request of a party, the hearing commissioners or referees shall order witnesses excluded so that they cannot hear the testimony of other witnesses. The hearing commissioners or referees shall not exclude a party, an individual designated by a party as its representative, or a person whose presence is shown by a party to be essential to the party's presentation of his or her position.

(b) Hearing commissioners or referees may examine witnesses and direct the production of papers or other evidence.

(c) Oral testimony shall be given under oath or affirmation and verbatim stenographic notes of the hearing shall be made and kept by a competent reporter. Transcripts shall be kept and, prior to the issuance of a final order, shall be available to the commissioners and hearing referees; parties may obtain transcripts by making suitable arrangements with the reporters, and the department shall not be responsible for providing transcripts to the parties prior to issuance of final orders.

(d) Where hearings are conducted by 3 or more commissioners or referees, all rulings and determinations shall be made by majority rule.

(e) Evidence of the department's endeavors at conciliation shall not be admissible at the hearing.

(8) Hearing commissioners or referees or a party may request a prehearing conference which the hearing commissioner or referee may schedule, subject to

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objection by any party. Such prehearing conference may be held to obtain admissions, stipulations as to fact and law, agreement on the issues, and to determine the authenticity of documents. Written stipulations may be introduced in evidence if signed by each person sought to be bound thereby, or by his or her counsel. Oral stipulations may be made on the record at open hearing.

(9) Hearing commissioners or referees may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing or by appropriate notice to all parties.

(10) Hearing commissioners or referees shall permit the parties or their counsel or the member of the department's staff presenting the case in support of the charge, and may permit interveners, to argue orally before them and to file briefs within such time limits as the hearing commissioners or referees may determine.

(11) Hearing commissioners or referees may exclude from the hearing room or from further participation in the proceeding any person who engages in improper conduct before them, except a party, his or her counsel, or a witness engaged in testifying, each of whom shall be subject to appropriate disciplinary action by the commission.

(12) Hearings shall be open to the public, unless the commission or referee shall otherwise determine.

(13) Any motion filed by a party subsequent to the issuance of a charge and prior to hearing shall be referred to the hearing commissioners or referees for decision. The hearing commissioners or referees may request briefs or schedule oral arguments, or both, as they deem necessary and, where appropriate, they may reserve their ruling until the conclusion of the hearing. All rulings upon motions shall be included in the report of the hearing commissioners or referees to the commission.

(14) A party may submit, or the hearing commissioners or referees may request, proposed findings of fact, proposed conclusions of law, and proposed orders at the conclusion of the hearing. All such proposals shall be submitted to the commission with the report of the hearing commissioners or referees.

History: 1954 ACS 44, p. 8, Eff. Nov. 14, 1965; 1954 ACS 50, p. 8, Eff. May 15, 1967; 1954 ACS 65, p. 5, Eff. Oct. 1, 1970; 1954 ACS 101, p. 8, Eff. Oct. 18, 1979.

R 37.13 Service of documents upon counsel.

Rule 13. If counsel has appeared in writing on behalf of a party, a copy of any notice, pleading, or other document required to be sent to a party under these rules shall be mailed to counsel instead of the party, unless there is a written request from the party or counsel that a copy be mailed to the party also.

History: 1954 ACS 44, p. 9, Eff. Nov. 14, 1965; 1954 ACS 50, p. 9, Eff. May 15, 1967; 1954 ACS 101, p. 9, Eff. Oct. 18, 1979.

R 37.14 Orders to submit pertinent material and require attendance of witnesses; other powers; cost of service; witness and mileage fees.

Rule 14. (1) At the instance of a party or on its own behalf, the commission or the department may order the submission of books, papers, records, and other pertinent material, and require the attendance of witnesses, administer oaths, take testimony and receive evidence, and compel, through court authorization, compliance with its orders.

(2) Where an order is issued at the instance of a party to the inquiry or proceedings, other than the commission or a member thereof, or the department, the cost of service and witness and mileage fees shall be borne by the party at whose instance it has been requested and issued. When an order is issued at the instance of the commission, or a member thereof, or the department, the cost of

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such service and witness and mileage fees shall be borne by the commission or department. Such witness and mileage fees shall be the same as are paid to witnesses in the circuit courts of the state of Michigan.

History: 1954 ACS 44, p. 10, Eff. Nov. 14, 1965; 1954 ACS 50, p. 9, Eff. May 15, 1967; 1954 ACS 101, p. 9, Eff. Oct. 18, 1979.

R 37.15 Depositions.

Rule 15. In accordance with the Michigan general court rules, the commission, or any member thereof, or the director, on its own motion or on the application of 1 of the parties, may take or cause to be taken depositions of witnesses residing within or without the state.

History: 1954 ACS 44, p. 10, Eff. Nov. 14, 1965; 1954 ACS 101, p. 9, Eff. Oct. 18, 1979.

R 37.16 Order issued after hearing.

Rule 16. (1) An order of the commission issued after hearing shall set forth the findings of fact and the basis for its decision. Following a hearing conducted under R 37.12, and prior to a final order, the commission shall transmit to the parties a copy of the report of the hearing commissioners or referees and shall give parties an opportunity to file exceptions and present written arguments to the commission. The commission may permit oral argument prior to its final decision.

(2) If upon the evidence at the hearing the commission shall find that a respondent has engaged in any unlawful discrimination, the commission shall state its findings of fact and may issue an order requiring such respondent to cease and desist from such unlawful discriminatory act and to take such affirmative action as the commission may deem appropriate, which may include reporting from time to time the manner and extent of compliance. If upon the evidence the commission shall find that a respondent has not engaged in unlawful discrimination, the commission shall state its findings of fact and shall issue an order dismissing the charge as to such respondent.

(3) Copies of orders shall be served upon parties, interveners, and their counsel by registered or certified mail, return receipt requested, or by such other means as are reasonably calculated to give actual notice, accompanied by a notice of the statutory right to judicial appeal.

(4) All orders issued after a hearing shall be filed with the director. Such orders shall be open to public inspection during regular office hours of the department.

(5) When deemed by the commission necessary to safeguard the interest of persons concerned and to prevent injustice, the commission at any time prior to or subsequent to the issuance of a charge may issue its own order or the commission or the department may apply to an appropriate court for the issuance of an order directed to or against any person or persons enjoining or prohibiting any conduct or threat thereof which violates or jeopardizes any of the rights of any person or persons guaranteed by law or the constitution.

History: 1954 ACS 44, p. 10, Eff. Nov. 14, 1965; 1954 ACS 50, p. 9, Eff. May 15, 1967; 1954 ACS 101, p. 9, Eff. Oct. 18, 1979.

R 37.17 Reopening of proceedings.

Rule 17. The commission upon its own motion, or upon request of any party or intervener, whenever justice so requires, may at any time reopen any closed proceeding upon notice to all parties and interveners. The department may reopen any proceeding closed by the department in the same manner.

History: 1954 ACS 44, p. 10, Eff. Nov. 14, 1965; 1954 ACS 101, p. 10, Eff. Oct. 18, 1979.

R 37.18 Appeals from order of commission.

Rule 18. Any party claiming to be aggrieved by a final order of the commission or the department, including without limitation a refusal to issue a charge, may

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appeal to the circuit court of the state of Michigan having jurisdiction provided by law within 30 days of the date of service of an appealable order.

History: 1954 ACS 44, p. 11, Eff. Nov. 14, 1965; 1954 ACS 50, p. 10, Eff. May 15, 1967; 1954 ACS 101, p. 10, Eff. Oct. 18, 1979.

R 37.19 Modification or setting aside of orders.

Rule 19. Until an appeal shall have been filed in a court, as provided in R 37.18, the commission may, at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any findings or order made by it.

History: 1954 ACS 44, p. 11, Eff. Nov. 14, 1965; 1954 ACS 101, p.10, Eff. Oct. 18, 1979.

R 37.20 Declaratory ruling.

Rule 20. (1) The commission, on petition of an interested person, may issue a declaratory ruling as to the applicability of a statute, regulation, or rule to an actual state of facts upon submission to the commission of each of the following:

(a) A clear and concise statement of the facts.

(b) A legal brief, memorandum, or other reference to legal authorities relied upon.

(2) The commission, if it determines it shall issue a declaratory ruling, shall furnish the person with a statement to that effect and set forth the time in which the commission shall issue the ruling. The commission shall not issue a declaratory ruling after a complaint has been filed with the department.

(3) A ruling shall contain the statement of facts upon which it is based and the legal authority on which the commission relies. A ruling, once issued, is binding on the commission and the commission may not retroactively change the ruling, but nothing in this rule shall prohibit the commission from prospectively changing a ruling.

History: 1954 ACS 44, p. 11, Eff. Nov. 14, 1965; 1954 ACS 101, p. 10, Eff. Oct. 18, 1979.

R 37.21 Rules; adoption; amendment or rescission.

Rule 21. New rules may be adopted and any rule may be amended or rescinded by the commission at a regular or special meeting, provided that not less than 5 members are present and voting in favor of such amendment and notice thereof shall have been given to all members of the commission not less than 10 days before the meeting at which action it is to be taken.

History: 1954 ACS 44, p. 11, Eff. Nov. 14, 1965; 1954 ACS 101, p. 10, Eff. Oct. 18, 1979.

R 37.22 Rules; availability; construction.

Rule 22. (1) The rules of the commission shall be available to the public at all offices of the department.

(2) These rules shall be liberally construed to accomplish the purposes of the constitution and the policies of the commission.

History: 1954 ACS 44, p. 11, Eff. Nov. 14, 1965; 1954 ACS 101, p. 10, Eff. Oct. 18, 1979.

R 37.23 Guidelines.

Rule 23. The commission may adopt interpretive or procedural guidelines, or both, at a regular or special meeting, if not less than 5 members are present and are voting in favor of such guidelines and notice thereof is given to all members of the commission not less than 10 days before the meeting at which action is to be taken. Guidelines may be amended or rescinded by the same procedure. The guidelines shall be available to the public at all offices of the department.

History: 1954 ACS 101, p. 10, Eff. Oct. 18, 1979.

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R 37.24 Record making and keeping; disclosure.

Rule 24. (1) Any person who wishes, for purposes not inconsistent with the constitution and statutes, to make any of the records prohibited by sections 206 and 402(c) of Act No. 220 of the Public Acts of 1976 and sections 206 and 402(c) of Act No. 453 of the Public Acts of 1976, being §§37.1206, 37.1402(c), 37.2206, and 37.2402(c) of the Michigan Compiled Laws, may apply to the commission, stating the specific purpose, method of compilation, and disposition of such information. The commission may permit the making or keeping of such records for limited periods upon such application.

(2) A person subject to section 206 of Act No. 453 of the Public Acts of 1976 and section 206 of Act No. 220 of the Public Acts of 1976, being §§37.2206 and 37.1206 of the Michigan Compiled Laws, shall, upon request of the department or commission, disclose information covered by the above sections and shall not thereby be in violation of those provisions. A person subject to the same sections may retain records and information previously and lawfully obtained from prospective employees, but may not disclose that information, except as provided in this rule.

History: 1954 ACS 101, p. 11, Eff. Oct. 18, 1979.

R 37.25 Exemption from particular section of act; bona fide occupational qualification.

Rule 25. (1) A person subject to article 2 of Act No. 453 of the Public Acts of 1976, being §37.2201 et seq. of the Michigan Compiled Laws, may apply to the commission for exemption from particular sections of article 2 of Act No. 453 of the Public Acts of 1976, being §37.2201 et seq. of the Michigan Compiled Laws, on the basis that religion, national origin, age, height, weight, or sex is a bona fide occupational qualification. Applications may be obtained from, and may be submitted to, any office of the department, and the department shall transmit them to the commission.

(2) The commission may direct the department to investigate any matter deemed relevant to such applications, and the applicant shall make available any and all records, documents, data, or other information requested by the department or commission. Failure to provide such information shall result in denial of the application.

(3) An exemption shall not be granted if the same facts and circumstances are at issue in a complaint pending before the department or commission. Upon a sufficient showing, the commission may grant an exemption. The exemption may be later revoked by the commission if the commission obtains other or different information, but such revocations are prospective. Any person obtaining exemption shall notify the commission if and when the classification exempted is no longer utilized.

History: 1954 ACS 101, p. 11, Eff. Oct. 18, 1979.

R 37.26 Agreement or memorandum of understanding with local human rights agency or commission.

Rule 26. With the approval of the commission, the department may enter into agreements or memoranda of understanding with local human rights agencies or commissions, where such agreements shall facilitate the purposes of the constitution and civil rights statutes administered by the department and the commission. The agreements may include certification for the investigation of deferred complaints.

History: 1954 ACS 101, p. 11, Eff. Oct. 18, 1979.

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R 37.27 Voluntary plans.

Rule 27. (1) Any person requesting approval of a plan in accordance with the provisions of sections 210 and 507 of Act No. 453 of the Public Acts of 1976, and sections 208, 403, and 507 of Act No. 220 of the Public Acts of 1976, being §§37.2210, 37.2507, 37.1208, 37.1403, and 37.1507 of the Michigan Compiled Laws, may submit the plan by filing it at any office of the department and requesting approval.

(2) The commission may direct the department to obtain such information as it deems necessary to approve or disapprove a plan. The person requesting approval shall make available all records or information requested, and such information shall be deemed confidential. Information required shall include, but shall not be limited to, all of the following:

(a) Verification that the person requesting approval is not subject to any federal or state court order covering any of the practices involved in the plan.

(b) A statement of all court or agency enforcement actions presently pending.

(c) A statement of any voluntary plans previously filed with other state or federal agencies.

(d) A statement of the purpose of the plan.

(3) The commission may, prior to approving or disapproving any plan, indicate to the person requesting approval areas needing improvement in the plan, and the commission may disapprove or refuse further consideration of any plan unless such improvements are made.

History: 1954 ACS 101, p. 11, Eff. Oct. 18, 1979.

NOTICES

(By authority conferred on the civil rights commission by section 29 of article 5 of the state constitution, and section 5 of Act No. 45 of the Public Acts of the Second Extra Session of 1963, being §37.5 of the Michigan Compiled Laws)

R 37.101 Posting of notices.

Rule 101. The commission may require persons, groups, or organizations within its jurisdiction to post, in a conspicuous place, notices which the commission may publish or cause to be published setting forth any requirement for compliance with civil rights law or such other relevant information which the commission determines necessary to explain such law.

History: 1954 ACS 50, p. 10, Eff. May 15, 1967.

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DEPARTMENT OF MANAGEMENT AND BUDGET

STATE EMPLOYEES' RETIREMENT BOARD

PROCEDURE FOR CONDUCTING HEARINGS

(By authority of Act No. 197 of the Public Acts of 1952, as amended, being §24.101 et seq. of the Michigan Compiled Laws)

R 38.1 Notice of hearing.

Rule 1. Notification of any hearing before the state employees' retirement board will be by registered mail, and will state the date, time, place, issues involved, and reasons for holding said hearing. Such notice will be mailed at least 10 days prior to said hearing. Unless indicated otherwise, all hearings will be held in the offices of the state employees' retirement board.

History: 1944 ACS 37, p. 16; 1954 AC, p. 601.

R 38.2 Appearance.

Rule 2. When an appearance is made at a hearing, it shall be made either in person or by a duly authorized representative, or by counsel.

History: 1944 ACS 37, p. 16; 1954 AC, p. 601.

R 38.3 Written answer; oral statement on charges; service of briefs or arguments.

Rule 3. The person or persons who have been served with a notice of hearing may, at his option, file a written answer thereto prior to the date set for hearing, or at said hearing may appear and present an oral statement on the charges contained in the notice of hearing. When written briefs or arguments are presented, a copy shall be served upon the opposite parties or their attorneys at least 10 days prior to the date set for the hearing.

History: 1944 ACS 37, p. 16; 1954 AC, p. 601.

R 38.4 Failure to appear.

Rule 4. If the person or persons who have been previously served with a notice of hearing fail to appear at a noticed hearing, the state employees' retirement board, may proceed with a hearing of the cases brought before him and may, on the evidence presented, make his decision.

History: 1944 ACS 37, p. 16; 1954 AC, p. 601.

R 38.5 Statement of facts.

Rule 5. When a hearing is requested, the party requesting the hearing shall submit in writing a fair and accurate statement of the facts to the state employees' retirement board and all interested parties. The facts shall be accepted as evidence unless a written answer is filed denying said facts and stating new facts relied upon with the state employees' retirement board and all interested parties.

History: 1944 ACS 37, p. 16; 1954 AC, p. 601.

R 38.6 Adjournment or continuance of hearing.

Rule 6. No hearing shall be adjourned or continued, except upon an order of the state employees' retirement board or the department employee conducting the hearing. All motions and requests for an adjournment, or a continuance, shall

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be in writing, which instrument shall state concisely the reasons why an adjournment or continuance is necessary. No motion or request for an adjournment or continuance will be considered unless the same is filed with the state employees' retirement board at least 5 days prior to the date assigned for the hearing of the application, complaint or petition, except upon order of the executive secretary of the retirement board which exception will be granted only upon a showing that for reasons not within the control of the person or party making the motion or request, the motion or request could not be filed within the time limited.

History: 1944 ACS 37, p. 16; 1954 AC, p. 601.

R 38.7 Stipulations.

Rule 7. The parties to any hearing before the state employees' retirement board may, by a stipulation in writing, filed with the state employees' retirement board, agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence on the hearing. Parties are requested to thus agree upon the facts whenever practicable.

History: 1944 ACS 37, p. 16; 1954 AC, p. 601.

R 38.8 Depositions.

Rule 8. Depositions shall only be taken upon written authority of the state employees' retirement board where it is proved in writing to the state employees' retirement board that it is impractical or impossible to otherwise obtain the evidence. Where depositions are permitted, they shall be taken according to the rules for taking depositions in civil cases in the state of Michigan, being Michigan Statutes Annotated, §27.854, et seq., with all parties given an opportunity to cross-examine the witness under oath.

History: 1944 ACS 37, p. 16; 1954 AC, p. 602.

ELIGIBILITY FOR DEFERRED SERVICE BENEFITS UPON RETURN TO STATE SERVICE

(By authority conferred upon the Michigan state retirement board under section 2 of Act No. 240 of the Public Acts of 1943, as amended, being §38.2 of the Michigan Compiled Laws)

R 38.11 Definitions.

Rule 1. (1) "Member" means a state employee included in the state employees' retirement system pursuant to Act No. 240 of the Public Acts of 1943, as amended, being §§38.1 to 38.43 of the Michigan Compiled Laws.

(2) "Service" means service rendered the state by a member.

History: 1954 ACS 77, p. 5, Eff. Nov. 30, 1973.

Editor's note: This rule was formerly numbered R 38.1, but has been renumbered R 38.11 to avoid conflict with another rule numbered R 38.1.

R 38.12 Service requirements.

Rule 2. (1) If a member returns to service after separation of 5 years or more, he shall accumulate 5 years of accredited service to restore past service credit and become eligible for deferred retirement benefits under subsection (7) of section 20 of Act No. 240 of the Public Acts of 1943, as amended, being §38.20 of the Michigan Compiled Laws.

(2) If a member returns to service after less than 5 years of separation, he shall accumulate at least 6 months of accredited service to become eligible for deferred retirement benefits under subsection (7) of section 20 of Act No. 240 of the Public Acts of 1943, as amended.

History: 1954 ACS 77, p. 5, Eff. Nov. 30, 1973.

Editor's note: This rule was formerly numbered R 38.2, but has been renumbered R 38.12 to avoid conflict with another rule numbered R 38.2.

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DEPARTMENT OF EDUCATION

STATE TENURE COMMISSION

GENERAL RULES

R 38.71 Rescinded.

History: 1954 ACS 10, p. 5, Eff. June 14, 1957; rescinded 1954 ACS 86, p. 5, Eff. Feb. 4, 1976.

R 38.101—R 38.123 Rescinded.

History: 1954 ACS 10, pp. 5-8, Eff. June 14, 1957; 1954 ACS 48, p. 5, Eff. Nov. 14, 1966; 1954 ACS 65, p. 7, Eff. Oct. 27, 1970; rescinded 1954 ACS 86, p. 5, Eff. Feb. 4, 1976.

GENERAL RULES

(By authority conferred on the state tenure commission by section 10 of article 7 of Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being §38.140 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 38.131 Definitions.

Rule 1. (1) "Act" means Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being §38.71 et seq. of the Michigan Compiled Laws.

(2) "Commission" means the state tenure commission created by the act.

(3) The terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 86, p. 5, Eff. Feb. 4, 1976.

R 38.132 Meetings of commission.

Rule 2. The chairperson of the commission or a majority of its members may call a session of the commission. The hours of the commission when in session shall be from 9 a.m. to 12 noon and 1:30 p.m. to 5 p.m. except as otherwise ordered by the commission.

History: 1954 ACS 86, p. 5, Eff. Feb. 4, 1976.

R 38.133 Office of commission.

Rule 3. The office of the commission shall be in the office of the state superintendent of public instruction.

History: 1954 ACS 86, p. 5, Eff. Feb. 4, 1976.

R 38.139 Rescission.

Rule 9. The rules of practice and procedure of the commission, being R 38.71 and R 38.101 to R 38.123 of the Michigan Administrative Code and appearing on pages 342 to 345 of the 1957 Annual Supplement to the Code, pages 3542 and 3543 of the 1966 Annual Supplement to the Code, and page 5354 of the 1970-71 Annual Supplements to the Code, are rescinded.

History: 1954 ACS 86, p. 5, Eff. Feb. 4, 1976.

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PART 2. APPEAL PROCEDURES

R 38.141 Representation; appearances.

Rule 11. (1) Practice before the commission shall be limited to attorneys at law in good standing. However, any party may represent himself.

(2) An attorney representing litigants under the act, or a party representing himself, shall file a written appearance on or before the time of the filing of the petition or the answer, whichever shall be applicable, at the office of the commission. Substitution of a withdrawing attorney shall be made upon written stipulation of the withdrawing attorney and the party represented, or at the discretion of the commission. The stipulation shall be filed immediately with the commission.

History: 1954 ACS 86, p. 5, Eff. Feb. 4, 1976.

R 38.142 Form and style of papers.

Rule 12. Papers filed with the commission shall be printed or typewritten and, if typewritten, shall be on 1 side only of white bond paper not more than 8½ inches wide and 13 inches long. Pleadings and briefs shall be filed with the commission along with 6 copies duly signed by the attorney, appealing party, or controlling board member. The commission may waive filing of the extra copies. A single copy of exhibits and transcript shall be filed unless the commission requests additional copies. The proper caption and docket number shall be placed on all papers filed along with 1 signed copy. The given name and surname of the party shall be set forth in the caption.

History: 1954 ACS 86, p. 6, Eff. Feb. 4, 1976.

R 38.143 Initiation of appeal.

Rule 13. An appeal from a decision of a controlling board under the act shall be initiated within 30 days from the date of receipt of such decision by the appealing party or the attorney of the appealing party by filing a notice of appeal and petition, original and 6 copies, with the commission substantially in the following forms:

(a) Notice of appeal.

STATE OF MICHIGAN
STATE TENURE COMMISSION

_____
Appellant.

vs.

_____
Appellee.

} Docket No.

NOTICE OF APPEAL

TO THE ABOVE NAMED APPELLEE(S): _____
(Board of Education)

YOU ARE HEREBY NOTIFIED that a petition has been filed with the State Tenure Commission in the above matter, and that if you desire to defend the same, you are required to answer or take such other action as may be permitted

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by law with regard to the petition herewith served upon you within 20 days after service of this notice of appeal and petition, exclusive of the day of service. If you fail to do so, judgment by default may be taken against you for the relief demanded in the petition.

(A copy of the Michigan Teacher Tenure Act and the rules of the State Tenure Commission governing the practice and procedure pertaining to proceedings before the State Tenure Commission may be obtained from the office of the Commission.)

DATED: _____

_____
By order of the State Tenure Commission

_____
(Appealing party, or attorney)

_____
(Business address)

(b) Petition.

STATE OF MICHIGAN
STATE TENURE COMMISSION

_____
Appellant.

vs.

_____
Appellee.

} Docket No.

PETITION

_____, the above named Appellant, (by his attorney) hereby petitions for a hearing and appeals the decision of Appellee, and as a basis alleges as follows:

I

FACTS

(Set forth by statement of the facts without repetition upon which cause of action the petitioner relies for specific averments as are necessary to inform reasonably the adverse party of the nature of the cause the adverse party is called upon to defend. Each allegation shall be clear, concise, and direct and set forth in a separate numbered paragraph.)

II

ASSIGNMENTS OF ERROR

(Set forth each assignment of error with such specific averments as are necessary to inform reasonably the adverse party of the nature of the claim asserted. Each assignment shall be clear, concise, and direct and stated in a separate numbered paragraph. Alleged error to be raised on appeal based upon a rule of the controlling board in the transcript of the local hearing must contain the citation of the volume and page of the transcript.)

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III

RELIEF

(Set forth clearly and concisely those demands for relief to which petitioner deems himself or herself entitled. Relief in the alternative may be demanded.)

Appealing party, or attorney

History: 1954 ACS 86, p. 6, Eff. Feb. 4, 1976.

R 38.144 Filing and service of notice of appeal and petition.

Rule 14. An appeal is commenced by filing with the commission a notice of appeal, petition and transcript, if any. The petitioner shall serve the appellee forthwith in person or by registered mail with a copy of the notice of appeal petition.

History: 1954 ACS 86, p. 7, Eff. Feb. 4, 1976.

R 38.145 Filing.

Rule 15. The filing of a document under these rules shall be with the office of the commission, and shall be received by the commission before the close of business on the last day of the time limit, if any, for the filing.

History: 1954 ACS 86, p. 7, Eff. Feb. 4, 1976.

R 38.146 Service.

Rule 16. Except for the original service of the notice of appeal and petition, service required or permitted to be made upon a party represented by an attorney shall be made as follows:

(a) Service upon the attorney shall be made by delivering or by mailing a copy to the attorney's last known business address. Service upon a party shall be made by delivering a copy or by mailing a copy to the party at the address as stated in the petition.

(b) Mailing of a copy within this rule means enclosing it in a sealed envelope with first class mail postage fully prepaid, addressed to the person to be served, and depositing the envelope and its contents in the United States government mail.

(c) Proof of service of papers required or permitted to be served may be written acknowledgment of service, by affidavit of the person making service, or by other proof satisfactory to the commission.

History: 1954 ACS 86, p. 7, Eff. Feb. 4, 1976.

R 38.147 Answers.

Rule 17. After service of a copy of a notice of appeal and petition, appellee shall have 20 days within which to file and serve an answer thereto. The answer shall contain specific admission or denial of each material allegation of fact contained in the petition and a statement of fact upon which the appellee relies for defense, and shall contain any affirmative allegations to be relied on by appellee. Each paragraph contained in the answer shall be numbered to correspond with the paragraphs in the petition. An original and 6 copies of the answer shall be filed with the commission and a copy shall be served upon all other parties.

History: 1954 ACS 86, p. 7, Eff. Feb. 4, 1976.

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R 38.148 Amendments.

Rule 18. The commission, or its chairperson, may permit a party to amend his pleadings before, during, or after the conclusion of the hearing upon such terms as may be deemed just and consistent with due process.

History: 1954 ACS 86, p. 8, Eff. Feb. 4, 1976.

R 38.149 Joinder of petitions.

Rule 19. More than 1 petitioner may join in an appeal with assertion of a right to relief jointly, severally or in the alternative in respect of or arising out of the same transaction, occurrence or series of transactions or occurrences, and if any question of law or fact common to all of them will arise in the action, or if it appears that their presence in the action will promote the convenient administration of justice. Misjoinder of petitioners is not ground for dismissal of the petition. Petitioners may be added or dropped by order of the commission on motion of any party or of its own initiative at any stage of the action and on such terms as are just.

History: 1954 ACS 86, p. 8, Eff. Feb. 4, 1976.

PART 3. MOTION PRACTICE

R 38.151 Form; time for filing.

Rule 21. (1) An application to the commission for an order in a pending action shall be by motion, in writing, unless made during a hearing. It shall state with particularity the grounds therefor, and shall set forth the relief of order sought.

(2) A written motion, a brief, and notice of the hearing thereof shall be served upon the opposing party before it is filed with the commission, unless a different time is fixed with good cause shown. Authorization by the chairperson of the commission for a different time shall be noted on the face of the notice. The day of hearing shall be not earlier than 14 days after the date the notice is served, except by authorization of the chairperson of the commission. When a motion is supported by affidavit, the affidavit shall be served with the motion. Opposing affidavits may be served not later than 7 days before the hearing unless the commission permits them to be served at some other time, as provided in R 38.159.

(3) Motions and responses thereto shall be accompanied by a brief which shall contain a concise statement of reasons in support of, or in opposition of, and a citation of authorities upon which the parties rely.

(4) A respondent opposing a motion shall file his response, including brief, if any, and supporting affidavits, within 10 days after service of the motions or at such other time as permitted by the commission or its chairperson.

(5) The movant and respondent shall serve copies of their respective papers upon opposing parties before or concurrently with the filing with the commission, and the papers shall indicate the service.

History: 1954 ACS 86, p. 8, Eff. Feb. 4, 1976.

R 38.152 Motion for a more definite statement.

Rule 22. If a petition or answer is so vague or ambiguous that it fails to comply with these rules, the opposing party may move for a more definite statement before filing responsive pleadings. The motion shall point out the defects complained and the details desired.

History: 1954 ACS 86, p. 8, Eff. Feb. 4, 1976.

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R 38.153 Motion to strike.

Rule 23. Upon motion made by a party or upon the commission's own initiative, the commission may order stricken from pleadings redundant, immaterial, impertinent, scandalous or indecent matter, or any part thereof not drawn in conformity with these rules, or evidence objected to which would not be admitted by the commission.

History: 1954 ACS 86, p. 8, Eff. Feb. 4, 1976.

R 38.154 Motion for accelerated judgment.

Rule 24. Upon motion, a party may demand that an appeal be denied for 1 or more claims and a petition dismissed on the basis that the commission lacks jurisdiction of the subject matter, or that the appeal is barred because it is untimely or because of some other disability of the petitioner or other disposition of the claim, before commencement of the appeal. The commission may order an immediate hearing on disputed questions of fact and render a judgment forthwith if the proofs show the moving party is so entitled, or it may postpone the hearing until the merits are heard.

History: 1954 ACS 86, p. 8, Eff. Feb. 4, 1976.

R 38.155 Motion for summary judgment.

Rule 25. (1) A party seeking to recover upon a claim, or against whom a claim is asserted, may move, with or without supporting affidavits, for summary judgment in his favor on all or any part of the claim at any time. The motion shall state that the moving party is entitled to judgment in his favor because of any of the following:

(a) The petitioner has failed to state a claim upon which relief can be granted.

(b) The controlling board has failed to state a valid defense to the claim asserted against it.

(c) There is no genuine issue as to a material fact, except as to the relief to be granted, and the moving party is therefore entitled to judgment as a matter of law.

(2) A motion based upon subdivision (c) shall be supported by affidavits, and the opposing party may serve opposing affidavits. The affidavits, together with the pleadings, admissions, and documentary evidence then filed in the action or submitted by the parties, shall be considered by the commission at the hearing. Judgment shall be rendered forthwith if the pleadings show that a party is entitled to judgment as a matter of law or if the affidavits or other proof show that there is no genuine issue of fact. If it appears that the opposing party, rather than the moving party, is entitled to judgment, the commission may render summary judgment in his favor without the necessity of a motion therefor.

History: 1954 ACS 86, p. 9, Eff. Feb. 4, 1976.

R 38.156 Motion for adjournment or continuance.

Rule 26. Adjournment or continuance shall not be granted except for good cause shown to the chairperson or designated member of the commission.

History: 1954 ACS 86, p. 9, Eff. Feb. 4, 1976.

R 38.157 Motion for default judgment.

Rule 27. A petitioner may move for a judgment by default if the appellee has failed to file and serve an answer in accordance with these rules and that fact is made to appear by affidavit. If, to enable the commission to enter a judgment or to carry it into effect, it is necessary to take testimony concerning lost salary, to

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establish the truth of an allegation by evidence or to make an investigation of any other matter, the commission may conduct hearings as it deems necessary and proper. For good cause shown, the commission may set aside a default judgment if application to have it set aside is made before the entry of the judgment or within 1 month after the judgment was served upon the party defaulted. A proceeding to set aside a default judgment, except when grounded on want of jurisdiction of the matter, shall be granted only if good cause is shown and an affidavit of facts showing a meritorious defense is filed with the commission.

History: 1954 ACS 86, p. 9, Eff. Feb. 4, 1976.

R 38.158 Motion for rehearing.

Rule 28. A motion for rehearing may be filed within 60 days after the date of a decision. It shall state briefly and distinctly the grounds therefor.

History: 1954 ACS 86, p. 9, Eff. Feb. 4, 1976.

R 38.159 Hearing of motions.

Rule 29. When the motion is filed, the moving party shall request a date for a motion to be heard prior to or at the time of the prehearing conference. At the discretion of the commission and for just cause, a motion may be heard at any time. If no response, including a brief, to the motion is timely filed, the motion shall be considered and decided without a hearing unless otherwise ordered by the commission. The commission may dispense with or limit oral arguments on motions.

History: 1954 ACS 86, p. 9, Eff. Feb. 4, 1976.

PART 4. PREHEARING CONFERENCE

R 38.161 Scope of conference.

Rule 31. In every matter, the commission shall direct the parties and their attorneys to appear for a prehearing conference to:

(a) State and simplify the factual and legal issues involved and consider the amendment of pleadings.

(b) Consider motions to be disposed of before hearing, the consolidation of the case with another, admissions of fact and authenticity of documents to avoid unnecessary proofs, and limiting the number of witnesses and the nature and extent of the relief demanded.

(c) Produce all proposed documentary evidence and admit their authenticity whenever possible.

(d) Prepare a list of witnesses who may be called at the time of the hearing.

(e) Estimate the time for hearing.

(f) Discuss the possibility of settlement.

(g) Consider all other matters that may aid in the disposition of the subject of disagreement.

History: 1954 ACS 86, p. 9, Eff. Feb. 4, 1976.

R 38.162 Prehearing summary.

Rule 32. The petitioner, or his attorney, shall prepare and file and cause to be served upon the opposing party within 10 days after the prehearing conference a summary of the results of the conference specifically covering each of the items discussed. The opposing party, within 5 days of service of the summary, may file objections thereto with the commission.

History: 1954 ACS 86, p. 10, Eff. Feb. 4, 1976.

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R 38.163 Hearing briefs.

Rule 33. The commission at the time of the prehearing conference may direct the parties to furnish the commission with a hearing brief as to any of the issues involved in the action. If required, hearing briefs are to be submitted to the commission at least 10 days before the hearing unless a different date is set by the commission, or unless the commission specifically waives the requirement.

History: 1954 ACS 86, p. 10, Eff. Feb. 4, 1976.

R 38.164 Presence of parties.

Rule 34. The commission may direct the parties to the action to be present or immediately available at the time of the prehearing conference.

History: 1954 ACS 86, p. 10, Eff. Feb. 4, 1976.

R 38.165 Waiver of prehearing conference.

Rule 35. The provisions of these rules pertaining to the prehearing conference and prehearing summary may be waived by stipulation of counsel of all parties to the action subject to the approval of the commission.

History: 1954 ACS 86, p. 10, Eff. Feb. 4, 1976.

PART 5. HEARINGS

R 38.171 Notice of hearing.

Rule 41. The commission shall notify all parties, including members of the commission, of the time and place of a hearing, either in person or by ordinary mail, at least 14 days prior thereto.

History: 1954 ACS 86, p. 10, Eff. Feb. 4, 1976.

R 38.172 General provisions.

Rule 42. A hearing for the purpose of taking evidence upon a petition shall be conducted by the commission or a hearing officer designated and authorized by the commission. A party may appear at a hearing in person or by legal counsel and may call, examine, and cross-examine witnesses and introduce into the record documentary or other evidence. Stipulations of fact may be introduced in evidence at the hearing at the discretion of the presiding officer conducting the hearing. An objection to the conduct of the hearing, including an objection to the introduction of evidence, may be oral or written and accompanied by a short statement of the grounds therefor. In a contested case, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the commission or its designated and authorized hearing officer conducting the hearing may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. The commission may take official notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within the commission's specialized knowledge.

History: 1954 ACS 86, p. 10, Eff. Feb. 4, 1976; 1954 ACS 95, p. 5, Eff. May 31, 1978.

R 38.173 Subpoenas.

Rule 43. (1) At the request of a party, subpoenas for attendance at a hearing shall be issued by the chairperson of the commission. A subpoena may command

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the person to whom it is directed to produce books, papers, documents, or other tangible things designated therein; but the commission, upon motion made at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable or oppressive.

(2) Every subpoena shall be issued by the chairperson of the commission, shall state the title of the matter, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. The chairperson shall issue a subpoena signed, but otherwise in blank, to a party requesting it, who shall fill it in before service.

(3) A subpoena shall be served by leaving it personally with the person to whom it is directed. The commission may allow service of a subpoena to be made upon a person in any other manner which is reasonably calculated to give him actual notice of the subpoena, if the chairperson of the commission has authorized the service before it is made, upon a showing to the chairperson that service of the subpoena cannot reasonably be made in person.

(4) Witnesses subpoenaed before the commission shall be paid the same fees and mileage that are paid to witnesses in circuit courts. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear, but may be recovered by the appealing body as costs if the commission so directs.

History: 1954 ACS 86, p. 10, Eff. Feb. 4, 1976.

R 38.174 Depositions.

Rule 44. The chairperson of the commission, upon the request of a party, may permit the taking of depositions or the serving of interrogatories for the purpose of discovery or testimony if the ends of justice would be served. A deposition shall be taken in accordance with the procedural requirements for the taking of depositions set forth in the Michigan general court rules.

History: 1954 ACS 86, p. 11, Eff. Feb. 4, 1976.

R 38.175 Briefs.

Rule 45. A party is entitled, upon request made before the close of the hearing, to file a brief with the commission which may fix a reasonable time for the filing. The commission may direct the filing of briefs if in its opinion the filing is warranted by the nature of the proceedings or the particular issues involved. The commission shall designate the manner of filing and serving and the time therefor.

History: 1954 ACS 86, p. 11, Eff. Feb. 4, 1976.

R 38.176 Proposed findings of fact and decision.

Rule 46. A party is entitled, upon request made before the close of the hearing, to file proposed findings of fact, or a proposed decision, or both, with the commission which may fix a reasonable time for the filing. The commission may direct the filing of proposed findings of fact or a proposed decision, or both, when in the opinion of the commission the filing is warranted by the nature of the proceedings or the particular issues involved. The commission may designate the manner of filing and serving and the time therefor.

History: 1954 ACS 86, p. 11, Eff. Feb. 4, 1976.

R 38.177 Decision or order.

Rule 47. (1) A decision or order of the commission shall be effective only if voted upon by a majority of the members of the commission; however, during the course of the hearing, the rulings of the chairperson of the commission are final.

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(2) A decision or order of the commission shall be served in writing to the parties concerned, or to their attorneys if represented, by registered mail.

History: 1954 ACS 86, p. 11, Eff. Feb. 4, 1976.

R 38.178 Powers of chairperson of the commission.

Rule 48. The chairperson of the commission shall have the power to:

(a) Hold prehearing conferences.

(b) Dispose of procedural requests or similar matters.

(c) Continue or adjourn a hearing.

(d) Allow depositions to be taken.

(e) Issue subpoenas in the name of the commission.

(f) Conduct the hearing and take any other action which he is authorized to take under these rules.

(g) Designate a member of the commission to act as his delegate and exercise any of his powers whenever he is unable to act and circumstances require immediate action to be taken.

History: 1954 ACS 86, p. 11, Eff. Feb. 4, 1976.

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DEPARTMENT OF MANAGEMENT AND BUDGET

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

GENERAL RULES

R 38.201—R 38.215 Rescinded.

History: 1944 ACS 5, p. 22; 1954 AC, pp. 701, 702; rescinded 1954 ACS 13, p. 37, Eff. Feb. 14, 1958.

GENERAL RULES

(By authority conferred on the public school employees' retirement board by section 7 of chapter 1 of Act No. 136 of the Public Acts of 1945, being §38.207 of the Michigan Compiled Laws)

R 38.221 Place of meetings.

Rule 1. All meetings of the board, unless otherwise ordered by the president, shall be held at Lansing in the building where the offices of the public school employees' retirement system are situated.

History: 1954 ACS 13, p. 37, Eff. Feb. 14, 1958; 1954 ACS 80, p. 5, Eff. July 6, 1974.

R 38.222 Regular meetings; time.

Rule 2. Regular meetings of the board shall be held at 10:30 a.m. on the first Monday of January, March, May, July and November and on the second Monday of September.

History: 1954 ACS 13, p. 37, Eff. Feb. 14, 1958; 1954 ACS 80, p. 5, Eff. July 6, 1974.

R 38.223 Annual meeting; officers; term.

Rule 3. The annual meeting of the board shall be held in July and the officers elected at the annual meeting shall take office immediately on election and serve until their successors are elected.

History: 1954 ACS 13, p. 37, Eff. Feb. 14, 1958; 1954 ACS 80, p. 5, Eff. July 6, 1974.

R 38.224 Special meetings.

Rule 4. Special meetings of the board may be held at any time on call of the president, or on written request to the secretary by the majority of the members of the board. Unless by unanimous consent, a special meeting shall not be held without 3 days' written notice to each member of the board.

History: 1954 ACS 13, p. 37, Eff. Feb. 14, 1958; 1954 ACS 80, p. 5, Eff. July 6, 1974.

R 38.225 Order of business.

Rule 5. The order of business at all regular meetings shall be as follows:

(a) Roll call.
(b) Approval of minutes.
(c) Consideration of financial report.
(d) Action on allowance applications.
(e) Unfinished business.
(f) New business.
(g) Special reports.
(h) Adjournment.

History: 1954 ACS 13, p. 37, Eff. Feb. 14, 1958; 1954 ACS 80, p. 5, Eff. July 6, 1974.

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R 38.226 Contributions; forwarding.

Rule 6. Reporting units shall forward all employee retirement contributions deducted to the retirement system monthly. Employer contributions from higher education and federally funded programs shall be forwarded quarterly. Social security employee contributions shall be forwarded to the social security contribution fund as required by the state social security administrator.

History: 1954 ACS 13, p. 37, Eff. Feb. 14, 1958; 1954 ACS 80, p. 5, Eff. July 6, 1974.

R 38.227 Quarterly affidavits; filing; contents.

Rule 7. By January 11, April 11, July 11 and October 11 of each year, each reporting unit shall file with the secretary of the retirement board a quarterly affidavit covering the preceding 3 months. This affidavit shall certify to the aggregate wages, wages paid from federal funds and contributions as required by statute. A report shall also be required as determined by the retirement board which shall include a list of all persons employed by the reporting unit, together with such other information on salary, service and contributions as is required for retirement reporting purposes. A report for social security reporting purposes shall be filed with the social security contribution fund as required by the state social security administrator.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 5, Eff. July 6, 1974.

R 38.228 Interest on contributions.

Rule 8. Interest on contributions from members to the annuity accumulation fund made in the fiscal year from July 1 through June 30 shall begin on the first day of the fiscal year next following and shall be computed at the end of that fiscal year.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

R 38.229 Application for retirement.

Rule 9. Application for retirement shall be made on forms furnished by the retirement board and shall be filed with the secretary of the retirement board. A letter of inquiry relative to retirement is not an application for retirement.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

R 38.230 Part-time service.

Rule 10. Where the terms of employment of a member call for less than 20 days of service per month, the employee shall be given credit toward retirement in proportion to the number of days of actual service that constitutes full-time service credit.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

R 38.231 Fractional years of service.

Rule 11. Where a member serves less than a school fiscal year, such time shall be credited as a fractional part of a school fiscal year in the proportion which the number of days actually served bears to the number of days that constitutes full-time service credit. All earned salaries for service performed under this chapter which are received by a member shall be credited toward retirement.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

R 38.232 Part-time members.

Rule 12. Part-time members shall receive service credit for full-time service on the basis of 30 or more hours per week and proportionate credit for less than 30

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hours on the basis of 30 hours for full-time credit in the proportion which the hours employed in the school fiscal year bears to 1,020 hours.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

R 38.233 Year of service.

Rule 13. The board shall grant a year of service to any member who has been employed during the school fiscal year from July 1 to June 30 for 170 days of not less than 6 hours per day. The board may allow a year of service credit if the member was employed for a minimum of 150 days when it is needed to qualify a member or beneficiary for a monthly allowance in the final year of service. This minimum may also be used when the employing school agency's full-time employee's term of employment is less than 170 days.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

R 38.234 Fractional years; crediting.

Rule 14. In determining the allowance of a member, fractional parts of years for members qualifying for an allowance under section 15a will not be credited unless they add together to make an additional total year.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

R 38.235 Refunds; probate court orders.

Rule 15. A written order by the judge of probate of the county of residence instructing the retirement board to make a refund to the administrator or executor of the estate of a deceased member, or other qualified person designated by such judge of probate, may be accepted in lieu of the written nomination of beneficiary where no valid written nomination of beneficiary is on file with the system.

History: 1954 ACS 13, p. 38, Eff. Feb. 14, 1958; 1954 ACS 80, p. 6, Eff. July 6, 1974.

PROCEDURE FOR CONDUCTING HEARINGS

(By authority of Act No. 197 of the Public Acts of 1952, as amended, and section 7 of chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, being §24.101 et seq. and §38.207 of the Michigan Compiled Laws)

R 38.301 Notice of hearing.

Rule 1. Notification of any hearing before the Michigan public school employees' retirement fund board will be by registered mail, and will state the date, time, place, issues involved and reasons for holding said hearing. Such notice will be mailed at least 10 days prior to said hearing. Unless indicated otherwise, all hearings will be held in the Lewis Cass Building in Lansing.

History: 1944 ACS 37, p. 19; 1954 AC, p. 702.

R 38.302 Appearance.

Rule 2. When an appearance is made at a hearing, it shall be made either in person or by a duly authorized representative, or by counsel.

History: 1944 ACS 37, p. 19; 1954 AC p. 702.

R 38.303 Written answer; oral statement on charges; service of briefs or arguments.

Rule 3. The person or persons who have been served with a notice of hearing may, at his option, file a written answer thereto prior to the date set for hearing, or at said hearing may appear and present an oral statement on the charges contained

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in the notice of hearing. When written briefs or arguments are presented, a copy shall be served upon the adverse party or his attorney and opposite parties at least 10 days prior to the date set for the hearing.

History: 1944 ACS 37, p. 19; 1954 AC, p. 703.

R 38.304 Failure to appear.

Rule 4. If the person or persons who have been previously served with a notice of hearing fail to appear at a noticed hearing, the Michigan public school employees' retirement fund board may proceed with a hearing of the cases brought before them and may, on the evidence presented, make their decision.

History: 1944 ACS 37, p. 19; 1954 AC, p. 703.

R 38.305 Statement of facts.

Rule 5. When a hearing is requested, the party requesting the hearing shall submit in writing a fair and accurate statement of the facts to the executive secretary of the retirement board and all interested parties. The facts shall be accepted as evidence unless a written answer is filed denying said facts and stating new facts relied upon with the retirement board and all interested parties.

History: 1944 ACS 37, p. 19; 1954 AC, p. 703.

R 38.306 Adjournment or continuance of hearing.

Rule 6. No hearing shall be adjourned or continued, except upon an order of retirement board or the department employee conducting the hearing. All motions and requests for an adjournment, or a continuance, shall be in writing, which instrument shall state concisely the reasons why an adjournment or continuance is necessary. No motion or request for an adjournment or continuance will be considered unless the same is filed with the retirement board at least 10 days prior to the date assigned for the hearing of the application, complaint or petition, except upon order of the retirement board, which exception will be granted only upon showing that for reasons not within the control of the person or party making the motion or request, the motion or request could not be filed within the time limited.

History: 1944 ACS 37, p. 19; 1954 AC, p. 703.

R 38.307 Stipulations.

Rule 7. The parties to any hearing before the retirement board may, by a stipulation in writing, filed with the retirement board, agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence on the hearing. Parties are requested to thus agree upon the facts whenever practicable.

History: 1944 ACS 37, p. 19; 1954 AC, p. 703.

R 38.308 Depositions.

Rule 8. Depositions shall only be taken upon written authority of the retirement board where it is proved in writing to the retirement board that it is impractical or impossible to otherwise obtain the evidence. Where depositions are permitted, they shall be taken according to the rules for taking depositions in civil cases in the state of Michigan, being Michigan Statutes Annotated, §27.854, et seq., with all parties given an opportunity to cross-examine the witness under oath.

History: 1944 ACS 37, p. 19; 1954 AC, p. 703.

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JUDGES' RETIREMENT BOARD

PROCEDURE FOR CONDUCTING HEARINGS

(By authority of Act No. 198 of the Public Acts of 1951, as amended, being §38.801 et seq. of the Michigan Compiled Laws)

R 38.801 Notice of hearing.

Rule 1. Notification of any hearing before the judges' retirement board will be by registered mail, and will state the date, time, place, issues involved, and reasons for holding said hearing. Such notice will be mailed at least 10 days prior to said hearing. Unless indicated otherwise, all hearings will be held in the offices of the judges' retirement board.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

R 38.802 Appearance.

Rule 2. When an appearance is made at a hearing, it shall be made either in person or by a duly authorized representative, or by counsel.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

R 38.803 Written answer; oral statement on charges; service of briefs or arguments.

Rule 3. The person or persons who have been served with a notice of hearing may, at his option, file a written answer thereto prior to the date set for hearing, or at said hearing may appear and present an oral statement on the charges contained in the notice of hearing. When written briefs or arguments are presented, a copy shall be served upon the opposite parties or their attorneys at least 10 days prior to the date set for the hearing.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

R 38.804 Failure to appear.

Rule 4. If the person or persons who have been previously served with a notice of hearing fail to appear at a noticed hearing, the judges' retirement board may proceed with a hearing of the cases brought before it, and may, on the evidence presented, make its decision.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

R 38.805 Statement of facts.

Rule 5. When a hearing is requested, the party requesting the hearing shall submit in writing a fair and accurate statement of the facts to the judges' retirement board and all interested parties. The facts shall be accepted as evidence unless a written answer is filed denying said facts and stating new facts relied upon with the judges' retirement board and all interested parties.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

R 38.806. Adjournment or continuance of hearing.

Rule 6. No hearing shall be adjourned or continued except upon an order of the judges' retirement board or the department employee conducting the hearing. All motions and requests for an adjournment, or a continuance, shall be in writing, which instrument shall state concisely the reasons why an adjournment or continuance is necessary. No motion or request for an adjournment or continuance will be considered unless the same is filed with the judges' retirement board at least 5 days prior to the date assigned for the hearing of the application, complaint

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or petition, except upon order of the executive secretary of the retirement board which exception will be granted only upon a showing that for reasons not within the control of the person or party making the motion or request, the motion or request could not be filed within the time limited.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

R 38.807 Stipulations.

Rule 7. The parties to any hearing before the judges' retirement board may, by a stipulation in writing, filed with the judges' retirement board, agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence on the hearing. Parties are requested to thus agree upon the facts whenever practicable.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

R 38.808 Depositions.

Rule 8. Depositions shall only be taken upon written authority of the judges' retirement board where it is proved in writing to the judges' retirement board that it is impractical or impossible to otherwise obtain the evidence. Where depositions are permitted, they shall be taken according to the rules for taking depositions in civil cases in the state of Michigan, being Michigan Statutes Annotated, §27.854, et seq., with all parties given an opportunity to cross-examine the witness under oath.

History: 1954 ACS 33, p. 5, Eff. Feb. 14, 1963.

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DEPARTMENT OF CIVIL SERVICE

PERSONNEL SERVICES BUREAU

SUGGESTION AWARDS PROGRAM

(By authority conferred on the department of civil service by section 6 of Act No. 325 of the Public Acts of 1978, being §38.1166 of the Michigan Compiled Laws)

R 38.901 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 325 of the Public Acts of 1978, being §38.1161 et seq. of the Michigan Compiled Laws.

(b) "Administrator" means the suggestion awards program administrator.

(c) "Committee" means the suggestion awards committee appointed in each state department, the state legislature, and the judiciary.

(d) "Coordinator" means the representative for the suggestion awards program in state departments and the legislative and judicial branches of state government.

(e) "Department head" means the director of a department of the executive branch, the chief justice of the judicial branch, and the chief administrative officers of the legislative branch.

(f) "Evaluator" means an appropriate person within the specific organization affected by the suggestion who ascertains the value of a suggestion in operational terms or goals and, if possible, in monetary terms.

(g) "State department" means any of the principal departments created by Act No. 380 of the Public Acts of 1965, as amended, being §16.101 et seq. of the Michigan Compiled Laws, and the legislative or judicial branch of state government.

(h) A "state employee" does not include an elected official in the executive, legislative, or judicial branches of state government.

(i) "Suggestion" means the concise written identification of a problem, situation, or condition, along with a recommendation for a remedy or improvement.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 99, p. 18, Eff. Mar. 29, 1979.

R 38.902 Administration of program.

Rule 2. The state personnel director, through his appointed suggestion awards administrator, is responsible for the overall administration of the suggestion awards program.

History: 1954 ACS 99, p. 19, Eff. Mar. 29, 1979.

R 38.903 Suggestion awards board; establishment; chairperson.

Rule 3. (1) If the department of civil service creates a suggestion awards board, members of said board shall be selected from a list of state employees. The list shall consist of names of nominees provided to the state personnel director by the department heads of the executive branch and of the legislative and judicial branches of state government. Not more than 1 nominee shall be from the same department. One member of the board may represent the legislative branch, 1 may represent the judicial branch, and 3 may represent the executive branch.

(2) At its first meeting each calendar year, the board shall elect from its membership a chairperson. The chairperson shall preside at all meetings. In his or her absence, the members of the board, at a meeting at which a quorum is present,

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shall designate a temporary chairperson to preside. A quorum shall consist of 3 members of the board.

History: 1954 ACS 99, p. 19, Eff. Mar. 29, 1979.

R 38.904 Suggestion awards board; meetings; public participation.

Rule 4. (1) The board shall hold a minimum of 3 meetings annually and such additional meetings as it deems necessary.

(2) In respect to public participation at board meetings, the following provisions apply:

(a) A person shall be provided an opportunity to address the board at an open meeting in accordance with this rule.

(b) The chairperson shall provide a reasonable opportunity for members of the public to address the board on an agenda item, if a request to speak is given to the executive secretary or chairperson prior to board consideration of the item.

(c) The chairperson shall provide a reasonable opportunity for members of the public to address the board on a subject which is not an agenda item, if a request to speak is given to the executive secretary or chairperson prior to the conclusion of the meeting.

(d) In accordance with procedural due process of law, members of the public shall not be permitted to address the board on pending appeal cases.

(e) A person wishing to address the board may be required to identify himself or herself and, if they are appearing in a representative capacity, shall identify the interest which they represent.

(f) The chairperson may impose reasonable limitations on the time allotted for comments by members of the public.

(g) The chairperson shall conduct the public participation portion of the open meetings in an orderly and decorous fashion.

(h) A group of 5 or more persons should give advance notice of their intention to attend a board meeting so that an effort can be made to provide adequate space. The chairperson may limit the number of persons admitted to the meeting room if necessary to comply with public safety laws and regulations.

(i) The board may hold closed, deliberative sessions when confidentiality has been requested by the employee as a condition of making the suggestion and a majority of the board deems it appropriate to honor the request. The closed session shall be in compliance with Act No. 267 of the Public Acts of 1976, being §15.261 et seq. of the Michigan Compiled Laws, and known as the open meetings act.

(3) The board decision on an employee appeal is final and not subject to the statewide grievance and appeals procedure as set forth in the employee relations policy and regulations issued by the department of civil service.

History: 1954 ACS 99, p. 19, Eff. Mar. 29, 1979.

R 38.905 Administrator; duties.

Rule 5. The administrator shall be the full-time executive officer of the suggestion awards program and shall serve as the executive secretary of the suggestion awards board. The administrator shall do all of the following:

(a) Supervise and promote the suggestion awards program. Promotion of the program may include, but is not limited to, the use of news releases, flyers, posters, suggestion stands, payroll stuffers, and advertising specialties.

(b) Arrange the suggestion awards board meetings, including determining the time and location, preparing a proposed agenda, and notifying members. The executive secretary shall record the minutes of all meetings and distribute them to

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members of the board. The executive secretary shall actively participate in the meetings of the board. The executive secretary shall also stamp as confidential each page of the minutes of closed, deliberative sessions and distribute them only to members of the board.

(c) Receive all suggestions and refer them to committees for investigation.

(d) Preliminarily screen suggestions to insure their conformity to the rules of the program.

(e) May refer suggestions with broad applicability to several departmental suggestion committees.

(f) Recommend action on suggestions under consideration by the suggestion awards board.

(g) Devise forms and procedures to implement the program.

(h) Work with the board to develop a plan for evaluating suggestions.

(i) Draft and propose rules and regulations regarding the operation of the program.

(j) Consult with and advise committees and coordinators.

(k) Submit a budget annually to the department for the administrative operation of the suggestion program.

History: 1954 ACS 99, p. 19, Eff. Mar. 29, 1979.

R 38.906 Committees; establishment; duties.

Rule 6. (1) Each department head shall establish a committee to consist of 3 members, all of whom shall be employees.

(2) A committee shall review suggestions that are referred to it by the administrator.

(3) Without undue delay, a committee shall report to the administrator concerning each submitted suggestion. The report shall contain an analysis of the suggestion, the reasons for approving or declining the suggestion; if approved, the estimated savings or benefits and a recommended award, and any other information that may be required by the act or these rules.

History: 1954 ACS 99, p. 20, Eff. Mar. 29, 1979.

R 38.907 Coordinator; appointment; duties.

Rule 7. A department head shall appoint a departmental suggestion coordinator who shall do all of the following:

(a) Receive suggestions, route them to personnel knowledgeable in the area addressed in the suggestion for evaluation, schedule the return of the written evaluation, and schedule suggestions and evaluations for consideration by the suggestion awards committee.

(b) Verify that approved suggestions are put into effect, and notify the administrator when this takes place.

(c) Promote the suggestion awards program.

(d) Arrange award presentations.

(e) Resubmit declined suggestions to the committee for reconsideration if new facts appear which warrant reconsideration or if the suggestion has been implemented.

(f) Submit an annual report to the administrator which shall separate the types of suggestions as tangible or intangible.

(g) Prepare draft correspondence addressed to the suggester explaining the action of the committee and forward it to the administrator for disposition.

(h) Receive requests for appeal of a committee decision from the suggester. The basis for an appeal may be new information or information previously

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overlooked or misunderstood. Based on the reasons for redetermination, the committee will review its decision. If the suggester does not agree with the committee review, the coordinator shall forward the appeal to the suggestion awards board.

History: 1954 ACS 99, p. 20, Eff. Mar. 29, 1979.

R 38.908 Eligibility of suggestion for award; appeal of committee decision; final decision; rights to suggestions.

Rule 8. (1) To be eligible for consideration for an award, a suggestion may:

(a) Result in tangible savings which can be measured in dollars, or

(b) Result in obvious savings to state government or the public which cannot be measured precisely or which, without direct dollar savings, improves service, convenience, humanitarianism, or has other intangible value.

(2) A suggestion shall be submitted on forms prescribed by the suggestion awards board and signed by the suggester.

(3) A suggestion pertaining to any of the following is not eligible for an award:

(a) Matters regarding an individual's classification, compensation, hours of work, labor relations, routine maintenance items, or grievances concerning personnel practices.

(b) A suggestion requiring legislative action; however, a suggestion submitted which requires legislative action shall be noted and returned to the suggester. If, on the suggester's initiative through his or her department or his or her own work, legislation is passed implementing the idea, the idea shall be considered for an award. The suggester shall notify the suggestion awards administrator if the legislation is implemented.

(c) Suggestions developed as part of the employee's work, such as any of the following:

(i) When it is part of the employee's job responsibility to develop new ideas.

(ii) When the employee has a temporary job assignment in the subject area.

(iii) When the employee is a supervisor with the authority to implement the suggestion.

(iv) When the employee is a part of a management group with the authority to implement the suggestion.

(4) The board shall make the final decision on an employee appeal regarding the eligibility of a suggestion.

(5) All suggestions implemented under the suggestion awards program become the property of the state of Michigan.

(6) A non-adopted suggestion may remain eligible for subsequent adoption and award for a period of 2 years beyond the submission date, after which time the use of the suggestion would not obligate the state unless it is resubmitted on the official suggestion form in accordance with procedures in effect at that time. If a suggestion has not been evaluated within 2 years of its submission, the suggester retains equity in the idea until it has been adopted or declined.

History: 1954 ACS 99, p. 20, Eff. Mar. 29, 1979.

R 38.909 Suggestions implemented but not awarded.

Rule 9. An employee may submit an idea which has been implemented. The suggestion shall be submitted within 30 days of implementation to be eligible.

History: 1954 ACS 99, p. 21, Eff. Mar. 29, 1979.

R 38.910 Processing of suggestions.

Rule 10. (1) The board shall develop procedures to implement these rules.

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(2) The department has the authority, within the act, to determine the structure of the suggestion awards program.

History: 1954 ACS 99, p. 21, Eff. Mar. 29, 1979.

R 38.911 Payment of awards by the department.

Rule 11. Awards shall be given as provided by the act, except that cash awards shall not be less than $25.00.

History: 1954 ACS 99, p. 21, Eff. Mar. 29, 1979.

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DEPARTMENT OF TREASURY

STATE BOUNDARY COMMISSION

GENERAL RULES

(By authority conferred on the state members of the state boundary commission by section 4 of Act No. 191 of the Public Acts of 1968, as amended, being §123.1004 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 123.1 Definitions; A to I.

Rule 1. (1) The terms defined in the act have the same meaning when used in these rules.

(2) "Act" means Act No. 191 of the Public Acts of 1968, as amended, being §§123.1001 to 123.1020 of the Michigan Compiled Laws.

(3) "Active petition" means an annexation petition or resolution, or incorporation or consolidation petition that is first in line at the time of its filing, or becomes first in line by the removal of a prior blocking petition or court action.

(4) "City incorporation" means the formation of a new city from unincorporated territory; 1 or more villages and contiguous unincorporated territory or an incorporated village without change of boundaries.

(5) "Consolidation" means the formation of a new city from 1 city, 1 village and unincorporated territory; or 1 city and 1 village; or 2 or more cities; or 2 or more cities and unincorporated territory; or 2 or more cities and 1 village; or 2 or more cities and 1 village and unincorporated territory; or 2 or more cities and 2 or more villages; or 2 or more cities, 2 or more villages and unincorporated territory; or 1 city and unincorporated territory.

(6) "Home rule city act" means Act No. 279 of the Public Acts of 1909, as amended, being §§117.1 to 117.38 of the Michigan Compiled Laws.

(7) "Home rule village act" means Act No. 278 of the Public Acts of 1909, as amended, being §§78.1 to 78.28 of the Michigan Compiled Laws.

(8) "Inactive petition" means an annexation petition or resolution or incorporation or consolidation petition that must wait in line because of an earlier filed petition describing the same area in part or whole or a petition blocked by legal action.

History: 1954 ACS 81, p. 8, Eff. Oct. 22, 1974.

R 123.3 Definitions; P.

Rule 3. (1) "Person" means an individual, partnership, corporation, association, municipality, or the state.

(2) "Petitioner" means a person who has signed, or circulated and verified, a petition for annexation, incorporation or consolidation or who has voted on and passed an annexation resolution as described in sections 7 and 12 of the act and subsections (2) and (7) of section 9 of the home rule city act and who has filed such petition or resolution with the commission.

History: 1954 ACS 81, p. 8, Eff. Oct. 22, 1974.

R 123.4 Definitions; V.

Rule 4. "Village incorporation" means the formation of a new village from unincorporated territory.

History: 1954 ACS 81, p. 9, Eff. Oct. 22, 1974.

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R 123.5 Scope and construction of rules.

Rule 5. These rules govern practice and procedure in all matters before the commission and shall be liberally construed to assure a just, economical and expeditious determination of the issues presented in accordance with the purposes of the act.

History: 1954 ACS 81, p. 9, Eff. Oct. 22, 1974.

R 123.6 Determining if population is over 100.

Rule 6. (1) Where an annexation petition or resolution is first in line upon its filing and can be acted upon, then the filing date population of 100 or less, or over 100 in the area to be annexed shall be determined as soon as practicable after the filing by 1 of the following methods:

(a) By joint agreement of the involved township board and city council and their certification to the commission of the count.

(b) By submission of either the township board or the city council, or both, of a certified list of the names and addresses of all residents in the area proposed to be annexed on the date the petition was filed. If both legislative bodies file lists, the commission shall examine the lists and using the guidance of applicable statutes, attorney general opinions or court decisions make a final population determination. If only 1 legislative body files a resident list, the commission shall supply a copy of the filed list to the nonfiling board and grant 30 days for that board to file written challenges to any names contained in the filed list. Upon the filing of a written challenge the commission shall examine the challenge and using the guidance of applicable statutes, attorney general opinions or court decisions the commission shall make a final population determination. If the commission receives only 1 filed certified resident list and that list receives no challenge, it shall stand as the determined population and the commission shall so certify.

(c) By a door-to-door canvass and interviews with the people within the area proposed to be annexed.

(d) By the method described in subrule (2).

(2) Where an annexation petition or resolution has waited in line, the filing date population of 100 or less, or over 100 in the area to be annexed shall be determined as follows:

(a) Residential structures within the area to be annexed shall be counted and classified as single family homes, mobile homes and multiple dwellings including duplex, triplex, apartments and condominiums. The total number of dwelling units shall be determined according to this classification and where necessary records are available, adjusting the count for addition or subtraction of dwelling units since the filing date.

(b) The average number of residents per dwelling unit factor by type of structure where available, or the average number of residents per dwelling unit for the municipality in which the area to be annexed is located or the county in which it is situated, derived in each instance from the last federal decennial or special census, shall be obtained. The commission shall use the factor that can be derived from the smallest political subdivision in which the area to be annexed is located to determine the population as of the date of filing.

(c) The number and type of dwelling units shall be multiplied by the average number of residents factor for that type of dwelling unit and the resultant populations for type of dwelling unit shall be added together to obtain total population.

History: 1954 ACS 81, p. 9, Eff. Oct. 22, 1974.

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PART 2. PREPARATION, FILING, AND PROCESSING PETITIONS

R 123.21 Filings.

Rule 21. (1) An incorporation or consolidation petition or annexation petition or resolution shall be filed with the secretary at his office in Lansing. A statement signed by at least 1 signer of the petition or resolution designating the name and address of a natural person to receive notices on behalf of all signers shall accompany the filing or shall be filed separately within 10 business days from the filing. Notice served by the commission or any other person on the designated natural person shall be deemed notice to all signers of the petition or voters on the resolution. Notice to an affected city, village, township or county shall be through its clerk. Upon the filing of a petition or resolution, the secretary shall make a notation as to the date and time of filing. Receipt of a petition is not an acknowledgement that the petition is proper or sufficient.

(2) Other items permitted or required to be filed with the commission shall be tendered in a legible reproducible form and deposited with or mailed to the secretary at his office in Lansing. He shall receive them only during business hours.

(3) A person may request, in writing, that the secretary notify him in writing when a document has been filed in a specific pending matter and the secretary shall send the notice at the earliest practicable time after the filing of the item.

(4) A person may inspect the commission's file regarding a specific pending matter at the secretary's office in Lansing during regular business hours and at his own expense may cause the contents of the file to be duplicated. A person other than the commissioners or staff may not remove an original or sole copy of any item from the file. A duplicate copy may be removed under such conditions as the secretary imposes for not to exceed 24 hours for the purposes of duplication.

History: 1954 ACS 81, p. 9, Eff. Oct. 22, 1974.

R 123.22 Pleadings.

Rule 22. In addition to petitions required by sections 7 and 12 of the act, and petitions and resolutions required by subsections (2) and (7) of section 9 of the home rule city act, objections to the form or substance of a petition or resolution, answers to such objections, a memorandum brief on issues of fact or law and such other pleadings as the commission by its order shall allow may be filed.

History: 1954 ACS 81, p. 10, Eff. Oct. 22, 1974.

R 123.23 Determination of days to public hearing.

Rule 23. (1) For purposes of determining the minimum 60 days and maximum 220 days from filing of an active petition or resolution to the holding of the public hearing, the filing day shall not be counted.

(2) The 60- and 220-day public hearing requirement shall not apply to inactive petitions until such time that they may become active petitions.

History: 1954 ACS 81, p. 10, Eff. Oct. 22, 1974.

R 123.24 Rejected petitions or resolutions.

Rule 24. (1) The commission shall reject an annexation petition or resolution for territory which includes all or any part of the territory which was described in any annexation petition or resolution filed within the preceding 2 years and which was denied by the commission or was defeated in an election.

(2) The commission shall reject a consolidation petition if a proposition to consolidate the identical municipalities has been voted on within the 2 years immediately preceding the filing of the later petition.

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(3) Upon such determination, the secretary shall return the petition or resolution to the petitioner and certify the reasons for its rejection.

(4) The 2-year period shall start on the day the prior annexation petition or resolution was filed.

(5) The 2-year period shall not apply to annexation petitions or resolutions that are rejected by the commission for not being legally sufficient.

History: 1954 ACS 81, p. 10, Eff. Oct. 22, 1974.

R 123.25 Petitions, general.

Rule 25. (1) Part I of incorporation or consolidation petitions or annexation petitions or resolutions shall consist of a map or drawing clearly showing the territory proposed to be incorporated, consolidated or annexed and be constructed by the petitioner in such a way that its minimum size is 8½" x 13" with a maximum size of 14" x 18". Parts II through VI shall be prepared on forms furnished by the commission. Part VII shall contain a map showing the relationship of the area proposed for incorporation, consolidation or annexation to the balance of the involved and adjacent units of government which may be of a size that the petitioner chooses and which shall not be considered by the commission in its determination of legal sufficiency. For the purpose of determining legal sufficiency, a perimeter map or drawing and legal description shall be part of the petition and shall be substantially accurate and consistent with each other.

(2) In a petition submitted to the public for signature, the map or drawing accompanying the signature sheets shall be of sufficient scale and clarity as to be unambiguous to a layman with respect to the inclusion or exclusion of his own property and the relationship of the petitioned area to identifiable roads, section lines, existing local government boundaries and major geographic features. Upon discovery of a disparity between various public or private records as to land ownership or the location of local government boundaries, the disparity shall be brought to the attention of the commission, the petitioners and the affected units of government prior to the commission's meeting on the legal sufficiency of the petition.

(3) Where maps, drawings, plats, deeds, surveys, legal descriptions, or other documents that are part of the petition or resolution contain reference to additional recorded data or documents that are found to be necessary to determine the accuracy of the petition, map, drawing, or legal description, and copies of these recorded documents are not a part of the petition, the secretary may request the petitioner to supply copies of these documents to the commission by a date specified by the secretary, which date shall be prior to the commission's meeting on the legal sufficiency of the petition.

(4) An annexation petition by a firm, corporation, or other formal organization and an annexation resolution shall contain copies of resolutions, meeting minutes, correspondence, transmittal letters, or other documents that are necessary to show that the petitioner was authorized to file. Where a city planning commission or a board or commission other than the city council initiates annexations, the petition shall contain copies of all documents necessary to show that the city council was fully informed before approving the annexation resolution. Similarly, for other organizations for which an officer or other authorized agent initiates a petition, it shall be documented that the proper governing body of that organization was fully informed before approving the annexation petition.

(5) Upon filing, each petition shall stand or fall on its own content. Modifications, corrections, deletions or additions to a petition shall not be made except those authorized in subrule (3) and R 123.27.

History: 1954 ACS 81, p. 10, Eff. Oct. 22, 1974.

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R 123.26 Forms.

Rule 26. A petition, and survey certification which may be required by commission order pursuant to R 123.27, shall be prepared on a size paper and in accordance with forms furnished by the commission. A petition and certificate shall contain only the matters prescribed by the forms and such additional information as the commission deems necessary. A petition shall not be considered unless it is prepared on the proper commission form. Blank petition forms shall be furnished by the commission.

History: 1954 ACS 81, p. 11, Eff. Oct. 22, 1974.

R 123.27 Boundary identification.

Rule 27. (1) A petition for incorporation, consolidation, or annexation or an annexation resolution shall clearly identify graphically and by an accurate written description the boundaries of the land that are proposed to be incorporated, consolidated, or annexed.

(2) The commission may order that all or part of the boundaries of the area be certified by a registered land surveyor.

History: 1954 ACS 81, p. 11, Eff. Oct. 22, 1974.

PART 4. PREHEARING PROCEDURES

R 123.41 Forms.

Rule 41. The documents required by R 123.42 and R 123.46 to R 123.49 shall be completed only on forms prescribed and furnished by the commission. In addition to the contents of the documents prescribed by those rules, the documents shall contain such additional information as the commission deems necessary and reasonable.

History: 1954 ACS 81, p. 11, Eff. Oct. 22, 1974.

R 123.42 Annexation, consolidation, and incorporation; criteria information.

Rule 42. Upon the declaration of legal sufficiency of an annexation petition or resolution or a consolidation or incorporation petition, the petitioner and the involved units of government shall be instructed to complete and return within 30 days of mailing a criteria information evaluation questionnaire which shall be provided by the commission.

History: 1954 ACS 81, p. 11, Eff. Oct. 22, 1974.

R 123.43 Prehearing conference.

Rule 43. (1) Upon filing the form required by R 123.42, the commission may hold a prehearing conference to which the petitioners, representatives from involved units of government, affected or interested state and federal agencies, affected planning commissions, other interested organizations and persons may attend and which may include, among other topics:

(a) Examination and discussion of the information shown to be available on the criteria information evaluation questionnaire.

(b) Determination if any additional information not listed on the questionnaire is available.

(c) Determination of what criteria information needs to be developed.

(d) Adoption of a resolution which shall:

(i) Specify additional information that is required to be developed.

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(ii) Specify dates the information shall be available.

(iii) Specify who shall provide the information.

(iv) Specify who shall pay the cost of providing the information.

(2) Within 10 days after adoption of the resolution provided for in subrule (1), the commission shall notify by mail the persons originally notified of the prehearing conference or attending the prehearing conference and include a copy of the resolution and the completed and filed criteria information evaluation questionnaire.

History: 1954 ACS 81, p. 12, Eff. Oct. 22, 1974.

R 123.44 Criteria information; methods of gathering.

Rule 44. After declaring the sufficiency of a petition or resolution, the commission may obtain the criteria data or information prescribed in section 9 of the act in the following manner:

(a) By directing the secretary to send written questions or requests for specific information to the petitioner, involved units of government, affected or interested state and federal agencies, affected planning commissions or other interested persons or governmental units to be filed in writing with the commission by a specified date prior to the public hearing date.

(b) By directing its staff, departmental employees or other personnel to gather the data or information it deems necessary which shall be available to the commission at a specified date prior to the public hearing date. In addition, the commission may direct that the raw data or information be analyzed, organized, condensed, summarized and presented to the commission in a compacted form. All raw data shall be maintained as part of the commission's file.

(c) By contracting with outside consultants to perform the functions of subdivision (b).

(d) By using the method described in R 123.43.

(e) By using all or any combination of these methods.

History: 1954 ACS 81, p. 12, Eff. Oct. 22, 1974.

R 123.45 Petitions filed with county clerk or secretary of state; notice to commission.

Rule 45. (1) Within 10 days after the filing of an annexation petition or resolution a county clerk or the secretary of state shall complete and transmit to the commission and involved units of government a notice of filing of request for local government boundary change.

(2) Within 30 days after reviewing the notice required by subrule (1), the commission shall complete and transmit to the county clerk or secretary of state a commission reply to the notice.

History: 1954 ACS 81, p. 12, Eff. Oct. 22, 1974.

R 123.46 Petitions and resolutions filed with commission; notice.

Rule 46. (1) Within 10 days after the filing of an incorporation or consolidation petition or annexation petition or resolution, the commission shall complete and transmit to the involved local governmental clerk, the affected county clerk or the secretary of state a notice of petition filing with the commission.

(2) Within 30 days after receiving the notice required by subrule (1), a clerk or secretary of state shall complete and transmit to the commission a response.

History: 1954 ACS 81, p. 12, Eff. Oct. 22, 1974.

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R 123.47 Notice of final action.

Rule 47. (1) Upon the completion of all its actions on an active city or village annexation petition or resolution, a city or village council or township board shall notify the commission by mail.

(2) Upon the completion of all action on an active incorporation or consolidation petition or a home rule city annexation petition or resolution under the jurisdiction of the commission, the commission shall notify the clerks of the involved local governments, the county clerk and secretary of state by mail that action on the petition is closed.

History: 1954 ACS 81, p. 13, Eff. Oct. 22, 1974.

PART 5. COMMISSION SESSIONS

R 123.51 Adjudicative sessions; call; attendance; presiding officer.

Rule 51. (1) When necessary the chairman shall call an adjudicative session, which may be an executive session, in Lansing or such other place as he designates, for the purpose of transacting any business described in R 123.52 under the conditions prescribed in R 123.53 and R 123.54. Where possible, the sessions shall be attended by all state members serving and by the county members appointed to sit on the commission.

(2) A quorum consists of at least 3 members at least 2 of whom are state members. Regardless of the number of commissioners present, at least 3 concurring votes are required to take any final adjudicative action.

History: 1954 ACS 81, p. 13, Eff. Oct. 22, 1974.

R 123.52 Business.

Rule 52. At an adjudicative session, the commission shall take 1 or more of the following actions:

(a) Pass on the propriety, sufficiency, and legality of a petition or resolution before its call for a public hearing.

(b) Order the date, place, and time for a public hearing.

(c) After the public hearing, and a supplemental hearing, if any, basing its decision on the evidence received at the hearings, take any appropriate action authorized by the act.

History: 1954 ACS 81, p. 13, Eff. Oct. 22, 1974.

R 123.53 Votes.

Rule 53. At an adjudicative session a concurring vote of at least 3 commissioners is required to take final action. The votes of each commissioner shall be noted in the commission's record. The chairman is a voting member of the commission on all matters. A member may abstain from voting on any matter.

History: 1954 ACS 81, p. 13, Eff. Oct. 22, 1974.

R 123.54 Record and finality of action.

Rule 54. A record shall be made of all proceedings at an adjudicative session. Commission action shall be regarded as final for all purposes other than judicial review when a vote has been recorded to reject, deny, approve, or approve with adjusted boundaries, although the commission's findings of fact and order may not have been reduced to written form and approved. Effective dates of the preceding action may be determined at the adoption of the written findings of fact and order. For purposes of judicial review, commission action is final when the written findings of fact and order are signed by the chairman.

History: 1954 ACS 81, p. 13, Eff. Oct. 22, 1974.

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R 123.55 Administrative sessions.

Rule 55. (1) When necessary the chairman shall call the other state members into an administrative session, which may be an executive session, in Lansing or such other place as he designates.

(2) At an administrative session the state members may take any action, other than action required to be taken at an adjudicative session, necessary or desirable to administer the act and to effectuate its purposes and which has been included in the chairman's call and such other business as not less than a majority of the state commissioners present and voting desire to take up.

(3) At an administrative session the vote of 2 state members is required to take a final action, except that if the commission has under consideration the hiring of staff personnel or retaining outside consultants, the unanimous vote of all state members is required.

(4) At the direction of the chairman, 1 or more state members may meet in a special session for the purposes of conducting administrative business of the commission not requiring a vote.

History: 1954 ACS 81, p. 13, Eff. Oct. 22, 1974.

PART 6. COMMISSION HEARINGS

R 123.61 Place; notices; adjournment.

Rule 61. (1) A public hearing shall be held in a public place located in the territory to be included within a proposed municipal boundary adjustment. Notice shall be given as prescribed in section 8 of the act.

(2) If the municipal boundary adjustment is an annexation matter, the public hearing may be held in or reasonably near the area proposed to be annexed.

(3) At the same time as the clerks of the involved units of government are notified of a public hearing, the commission shall notify the petitioners and the county clerks of the involved counties by certified mail at least 30 days before the date of the hearing.

History: 1954 ACS 81, p. 14, Eff. Oct. 22, 1974.

R 123.62 Commissioners present; presiding officers; scope.

Rule 62. (1) A public hearing as required by section 8 of the act, whenever possible, shall be attended by all state members and the 2 county members. A member not in attendance at a public hearing shall review the public hearing record and so signify to the chairman to be eligible to vote at subsequent adjudicative sessions. The chairman or his designee shall preside.

(2) At a public hearing the commission shall receive testimony concerning the reasonableness of the proposed incorporation or consolidation petition or annexation petition or resolution based upon the criteria listed in section 9 of the act, and only the presentation of evidence in oral or exhibit form or comment on or analysis of evidence shall be germane and part of the record. A person may present evidence or make a statement about the effect of the proposed action upon his personal interest or preference.

History: 1954 ACS 81, p. 14, Eff. Oct. 22, 1974.

R 123.63 Witnesses.

Rule 63. (1) An interested party may speak directly, may be represented by counsel and may present 1 or more spokesmen and supporting witnesses necessary to present relevant testimony if the presentation is limited to a reasonable time at the discretion of the chair.

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(2) A person shall not present evidence or argument or otherwise attempt to address the commission unless he has been recognized by the chairman and sworn if giving testimony himself. Upon recognition, the chairman may state the amount of time allotted to the person recognized.

(3) A person may ask to be heard at a public hearing without having filed prior notice of appearance.

(4) The commission on its own motion or in response to the request of a participant, when it determines that waiver or modification of the literal terms of this rule is necessary for a just disposition of a pending matter or to avoid hardship, may make such waiver or modification on such terms as it deems necessary or appropriate to effectuate the purpose of the act.

History: 1954 ACS 81, p. 14, Eff. Oct. 22, 1974.

R 123.64 Evidence; general provisions.

Rule 64. (1) The commission shall follow the rules of evidence applicable to civil proceedings so far as is practicable, but may admit and give value to other evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The commission shall give effect to rules of privilege recognized by law and may exclude incompetent, immaterial and unduly repetitious evidence.

(2) Evidence, including records and documents in possession of the commission prior to the public hearing, shall be offered and made a part of the record in the proceedings. Except as otherwise provided by law and these rules, the commission shall consider no other factual information or evidence in the determination of the case. Documentary evidence may be received by the commission in the form of copies or excerpts or by incorporation by reference.

(3) At a public hearing a person may cross-examine witnesses and submit rebuttal evidence. Commission members may also question witnesses.

History: 1954 ACS 81, p. 14, Eff. Oct. 22, 1974.

R 123.65 Evidence; form.

Rule 65. (1) The commission may receive evidence in oral or exhibit form.

(2) When it is deemed necessary or desirable the commission may direct that testimony to be given on direct examination shall be reduced to exhibit form and be offered by and served on all persons requesting the information and on the commission staff. The commission shall allow a reasonable time for preparation of the exhibit.

(3) Notwithstanding any provisions of this rule to the contrary, a person may have a witness on his behalf present his direct testimony orally before the commission. A witness or authorized officer of a firm whose testimony is submitted in exhibit form shall be made personally available by the party of record offering his testimony for cross-examination upon request by a party of record or the commission staff. If the witness is not so made available by the party of record offering his testimony, his testimony shall not be received in evidence.

(4) Testimony received in evidence in exhibit form shall be made a part of the record, copied into or fully described in the record. The commission shall accord the evidence the same weight and sufficiency as testimony received through oral examination. This rule does not prevent a witness' reading of prepared direct testimony.

History: 1954 ACS 81, p. 15, Eff. Oct. 22, 1974.

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R 123.66 Judicial notice.

Rule 66. The commission may take notice of judicially cognizable facts and of general, technical or scientific nature within its specialized knowledge. The commission shall give notice either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed and shall afford any person the opportunity to contest the facts so noticed. The commission may use its experience, technical competence, and general and specialized knowledge in the evaluation of the evidence presented. This rule does not permit the commission to take notice of evidence contrary to any statute or other law.

History: 1954 ACS 81, p. 15, Eff. Oct. 22, 1974.

R 123.67 Participation by commission staff.

Rule 67. The commission staff may appear in a public hearing and through its witnesses present testimony as to the results of its investigations, field studies, inspection and other technical investigations and studies. The commission staff may file briefs, make statements of positions or otherwise make recommendations on the record which it believes proper and lawful, based on the evidence presented. Commission staff presentations may include direct or documentary testimony by consultants employed by the commission or members of other governmental agencies either specific to the pending petition or providing relevant background information. Presentations under this rule are subject to cross-examination.

History: 1954 ACS 81, p. 15, Eff. Oct. 22, 1974.

R 123.68 Additional evidence.

Rule 68. (1) During the 30 days immediately following a public hearing the commission may receive additional or supplemental public hearing evidence including exhibits, written comments, statements, arguments, briefs, replies or any other evidence that properly could have been presented at the public hearing, including information derived from the specialized knowledge of the commission or its staff. Where practicable such information shall be in a format suitable for reproduction.

(2) A person wishing to be notified of the filing of additional evidence shall notify the commission in writing. The commission shall keep a list of the interested parties and notify each person on the list of all filings.

(3) The various interested parties shall make arrangements for the examination or review of any material so filed.

(4) If any material is filed on the twenty-sixth through thirtieth day after the public hearing, all parties shall have 7 days from the mailing of notice of the filing to answer it.

History: 1954 ACS 81, p. 15, Eff. Oct. 22, 1974.

R 123.69 Supplemental hearings.

Rule 69. Subsequent to any public hearing required by law, the commission on its own motion may hold a supplemental hearing at its offices in Lansing or any other appropriate place for the taking of additional evidence or for the hearing of additional argument relative to the reasonableness of a pending consolidation or incorporation petition or annexation petition or resolution or for consideration of adjusting the boundaries from those contained in the petition. R 123.62 to R 123.68 apply to supplemental hearings.

History: 1954 ACS 81, p. 15, Eff. Oct. 22, 1974.

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PART 7. POSTHEARING PROCEDURES

R 123.71 Disposition resolution.

Rule 71. (1) After a public hearing, the commission at an adjudicative session shall make findings of fact and conclusions after considering the criteria in section 9 of the act and by resolution shall dispose of the petition in 1 of the following ways:

(a) Denial of the petition or resolution.

(b) Approval of the petition or resolution as submitted.

(c) Revision of the boundaries as set forth in the petition and approval of the petition or resolution with the revised boundaries.

(2) Where the commission is considering adjusting the boundaries either inward or outward from those proposed in the petition or resolution, the commission may hold a supplemental hearing as provided in R 123.69.

(3) Where the area approved for annexation contains a population of 100 or less, the resolution shall contain the effective date of the annexation.

(4) Where the area approved for annexation contains a population of more than 100, the resolution may contain a tentative date for the annexation to become effective. This date shall become the effective date if a valid election request petition is not filed.

(5) Where the area is approved for consolidation or incorporation, the resolution becomes effective 45 days after the date of the resolution unless within that 45 days a valid election request petition is filed.

History: 1954 ACS 81, p. 16, Eff. Oct. 22, 1974.

R 123.72 Election petition; resolution.

Rule 72. (1) If within 30 days of the approval order for an annexation containing a population of more than 100 or within 45 days of the approval order for a consolidation or incorporation a valid petition is filed asking for an election on the proposed annexation, consolidation or incorporation, the commission shall dispose of the request by adopting a resolution stating their intent to place the question on the ballot at some future date, or setting the date of the special election.

(2) If an annexation election is held and each area voting on the question approves by a majority vote, the commission shall adopt a resolution setting the effective date of the annexation.

History: 1954 ACS 81, p. 16, Eff. Oct. 22, 1974.

R 123.73 Registered electors; certification.

Rule 73. (1) Upon the filing of an annexation initiatory petition signed by 20% of the registered electors of the area proposed to be annexed, the township clerk shall certify to the commission the number of registered electors in the area proposed to be annexed on the date the initiatory petition was filed.

(2) Upon the filing of a petition asking for an election on annexation questions the city or township clerk, or both whichever is appropriate, shall certify to the commission the number of registered voters in the area to be annexed, the remainder of the township and the annexing city whichever is appropriate on the filing date of the petition.

(3) Upon the filing of a petition asking for an election on a consolidation or incorporation question, the city, village, or township clerk, any or all whichever is appropriate, shall certify to the commission the number of registered voters in the area to be consolidated or incorporated on the filing date of the petition.

History: 1954 ACS 81, p. 16, Eff. Oct. 22, 1974.

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R 123.74 Lists of consolidation charter commission candidates.

Rule 74. Within 5 days after the deadline for filing nominating petitions for candidates for consolidation charter commissioners, the village, township, or city clerks shall transmit to the county clerk a certified list of charter commission candidates.

History: 1954 ACS 81, p. 16, Eff. Oct. 22, 1974.

R 123.75 Notice to charter commissioners.

Rule 75. Immediately after being notified of the canvass of a vote for charter commissioners, the commission shall notify the elected charter commissioners by registered mail that they shall meet within 10 days and furnish a certificate to be completed and returned by the charter commission certifying that it has met within the required 10 days.

History: 1954 ACS 81, p. 17, Eff. Oct. 22, 1974.

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DEPARTMENT OF SOCIAL SERVICES

STATE HOUSING DEVELOPMENT AUTHORITY

GENERAL RULES

R 125.1—R 125.73 Rescinded.

History: 1954 ACS 59, pp. 5-10, Eff. Aug. 14, 1969; rescinded 1954 ACS 69, p. 7, Eff. Nov. 5, 1971.

GENERAL RULES

(By authority conferred on the state housing development authority by section 22 of Act No. 346 of the Public Acts of 1966, as amended, being §125.1422 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 125.101 Definitions; A to C.

Rule 101. (1) The terms defined in the act have the same meaning when used in these rules as are ascribed to them in the act.

(2) "Act" means Act No. 346 of the Public Acts of 1966, as amended, being §§125.1401 to 125.1496 of the Michigan Compiled Laws.

(3) "Adjusted annual income" means gross income less $750.00 for each member of the family living in the same dwelling unit.

(4) "Adjusted family income" means the gross annual income from all sources and before taxes or withholding of all members of a family living in a dwelling unit or housing unit after deducting all of the following:

(a) Unusual or temporary income of any family member.

(b) Six hundred fifty dollars for each family member.

(c) Earnings of a family member who is under 18 years of age or who is physically or mentally handicapped.

(d) Fifty percent of the income of a second adult wage earner jointly occupying the dwelling or housing unit whose individual income is less than that of the wage earner with the highest income.

(e) The lesser of $1,000.00 or 10% of the gross annual income.

(5) "Applicant" means a corporation, partnership, joint venture, trust, individual, public body or agency or other entity, making application to receive authority monies or services under the act.

(6) "Application" means a request for authority assistance under the act made on forms furnished by the authority and containing such information as the executive director requires.

(7) "Authority" means the Michigan state housing development authority created by the act.

(8) "Central city" means any 1 of the following:

(a) A city eligible for listing in the title of a standard metropolitan statistical area according to the criteria set forth in standard metropolitan statistical areas, revised edition, 1975, a publication of United States office of management and budget, copies of which are available from the Lansing office of the state housing development authority at a cost of $2.30 per copy.

(b) An incorporated area totally surrounded by a city or cities eligible pursuant to subdivision (a).

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(c) Two or more incorporated areas, the total combined area of which is surrounded by a city or cities eligible pursuant to subdivision (a).

History: 1954 ACS 69, p. 5, Eff. Nov. 5, 1971; 1954 ACS 82, p. 5, Eff. Feb. 8, 1975; 1954 ACS 94, p. 6, Eff. Dec. 17, 1977; 1954 ACS 98, p. 1, Eff. Dec. 27, 1978.

R 125.102 Definitions; D to G.

Rule 102. (1) "Development fund grant" means a grant authorized by resolution of the authority and to be made to a local community from the housing development fund created by the act.

(2) "Development fund loan" means a loan authorized by resolution of the authority and to be made from the housing development fund created by the act, commonly referred to as a "seed money loan."

(3) "Dwelling unit" means living accommodations within a housing project intended for occupancy by a single family.

(4) "Executive director" means the executive director employed by the authority who is the chief administrative officer of the authority.

(5) "Family" means any 1 of the following:

(a) A person who is physically or mentally handicapped.

(b) A person who is 62 or more years of age.

(c) Two or more persons living together not contrary to law.

(d) A single person who is neither handicapped nor 62 or more years of age; provided, however, that the authority may limit by resolution the percentage of dwelling units within a housing project financed with a mortgage loan that may be made available for occupancy by such single persons.

(6) "Feasible housing project" means a proposed housing project as to which the authority has made a determination that such project can reasonably be expected to be successfully constructed on the proposed site within cost limitations acceptable to the authority and can reasonably be expected to be operated in a fiscally sound manner.

(7) "Gross income" means all income derived from whatever source. In computing gross income, all the income of the members of the family living in the same dwelling unit and contributing to the expenses of the family is to be considered. Gross income shall be determined in accordance with sections 61 and 71 to 124 of the internal revenue code, with the following exceptions:

(a) Overtime earnings shall not be included in determining gross income.

(b) Any nontaxable interest from any bond issue or any nontaxable dividend from a security is included in determining gross income.

(c) Losses from any of the following activities are not deductible in computing gross income:

(i) A farming syndication as described in section 464 of the internal revenue code.

(ii) Any type of corporation or partnership engaged in exploring for, or the exploiting of, oil and gas resources.

(iii) Any type of corporation or partnership engaged in equipment leasing.

(iv) Any type of corporation or partnership engaged in holding, producing, or distributing motion picture films or video tapes.

(v) Depreciation attributable to real or personal property.

(vi) Any activity that entails the owning, leasing, or renting of real estate.

(d) Any funds paid into a tax-sheltered retirement account are included in determining gross income.

History: 1954 ACS 69, p. 5, Eff. Nov. 5, 1971; 1954 ACS 94, p. 7, Eff. Dec. 17, 1977; 1954 ACS 98, p. 2, Eff. Dec. 27, 1978.

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R 125.103 Definitions; H to S.

Rule 103. (1) "Housing unit" means living accommodations intended for occupancy by a single family and which will be owned by the occupant thereof.

(2) "Local community" means a public body or agency, a quasi-governmental body approved by the authority and established by state or federal law, the governing board of which is elected by the residents of a definite geographical area, a park or playground association established pursuant to Act No. 161 of the Public Acts of 1911, being §§455.301 to 455.313 of the Michigan Compiled Laws, or a nonprofit corporation, limited dividend housing corporation, or limited dividend housing association which presents evidence that it is acting in a manner consistent with the objectives of the act with respect to the provision of housing.

(3) "Mortgage loan" means a loan authorized by resolution of the authority or by a mortgage loan commitment issued on behalf of the authority and made or to be made to an applicant for a housing project or a housing unit from the proceeds of sale of the authority's bonds or notes and any other available funds, for the purpose of providing construction financing, long-term financing, or both, the repayment of which is secured or to be secured as provided in the act.

(4) "Permanent general improvements" means additions, alterations, renovations, or repairs upon, or in connection with, an existing residential structure, which substantially protects or improves the basic livability or utility of the residential structure to be improved, thereby making the residential structure safe, sanitary, or adequate. Permanent general improvements do not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for residential structures of the same general type as the structure to be improved.

(5) "Qualified sponsor" means a local community or an eligible applicant pursuant to R 125.122.

(6) "Residential structure" means real property which is improved by a structure, which structure is used primarily for residential purposes on a year-round basis. This term does not include a mobile home or a trailer.

(7) "Sponsor" means an individual, group, or organization that stimulates or promotes an applicant and that continues to be interested in the activities of such applicant with respect to a housing project.

History: 1954 ACS 69, p. 6, Eff. Nov. 5, 1971; 1954 ACS 98, p. 3, Eff. Dec. 27, 1978.

R 125.105 Income limitations.

Rule 105. (1) In order for a family to be considered eligible for initial occupancy in a housing project or housing unit financed by the authority, that family's income shall not exceed the family income limitations hereafter provided:

(a) For housing which has been financed by the proceeds of authority bonds, which bonds have been delivered prior to June 9, 1977, the effective date of certain emergency rules which temporarily effectuated the provisions of subdivisions (b) and (c) of this rule, a family shall not have an adjusted family income greater than $12,000.00 plus $500.00 for each family member in addition to the head of the household and the head's spouse; provided, however, that the authority by resolution may determine with respect to a particular housing project that 20% of the dwelling units in that project shall be available for occupancy by families having an adjusted family income not greater than 125% of that established in this subdivision. Any such resolution shall include determinations by the authority that such project could not be marketed successfully without the higher income limit and that the project is either (i) Located in a city, other than a central city, with a per capita personal income less than the per capita personal income

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for the state, or (ii) Located elsewhere and the number of units for families with incomes eligible for public housing or a program equivalent is at least equal to the number of units for families with incomes between the 100% and 125% limits.

The $12,000.00 amount established in this subdivision shall be automatically increased in accordance with the following formula:

($12,000.00) + ($12,000.00 × .07 × n) where n is the number of complete years elapsed since January 1, 1973.

(b) For housing which has not been financed by proceeds of authority bonds, which bonds have been delivered prior to June 9, 1977, a family shall not have a gross income greater than $19,078.00.

(c) Notwithstanding the provisions of subdivisions (a) and (b), a family may have a gross income up to that established pursuant to the following formula: $1.5 \times a \times 1.07^n$ where a is that number identified in the publication entitled 1969 and estimated 1977 decile distributions of family income by SMSAs and non-metropolitan counties prepared by the United States department of housing and urban development office of economic affairs, economic and market analysis division, June 1, 1977, copies of which are available without cost at the Lansing office of the state housing development authority, as the median family income for the county in which the proposed housing is to be located and n is the number of complete years elapsed since June 1, 1977, where the authority by resolution makes the following determinations:

(i) The economic integration encouraged by the higher income limits shall promote the financial and social stability of housing financed or to be financed by the authority.

(ii) Private enterprise has failed to provide a substantial supply of adequate, safe, and sanitary dwellings in the area of the housing proposed for occupancy by families who qualify for assistance pursuant to subdivision (c) within the financial means of and suitable for such families.

(iii) The housing shall be located in an area in a central city which meets the criterion set forth in subdivision (c)(ii).

(2) Whenever federal subsidy payments are made on behalf of occupants of authority-financed dwelling units or housing units, the income limitations established herein shall be superseded by federal laws and regulations applicable with respect to those occupants.

(3) This rule does not apply to families applying for a home improvement loan pursuant to part 8 of the general rules of the authority.

History: 1954 ACS 69, p. 6, Eff. Nov. 5, 1971; 1954 ACS 82, p. 5, Eff. Feb. 8, 1975; 1954 ACS 88, p. 34, Eff. June 18, 1976; 1954 ACS 94, p. 7, Eff. Dec. 17, 1977; 1954 ACS 98, p. 3, Eff. Dec. 27, 1978.

R 125.107 Asset criteria.

Rule 107. The authority by resolution may establish asset criteria when it determines that action to be necessary to preserve the integrity of established income limitations and to effectuate the purposes of the act.

History: 1954 ACS 69, p. 7, Eff. Nov. 5, 1971.

R 125.109 Acceptance of aid and guarantees.

Rule 109. (1) Pursuant to sections 22(c) and 22(k) of the act, the authority, by resolution, may accept gifts, grants, loans or other aid, including guarantees, from the federal government or any persons or corporations, agree and comply with any condition attached thereto, and authorize and direct the execution on behalf of the authority or any agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, guarantees or other aid.

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(2) Without limitation on the provisions of subrule (1), the authority by resolution may accept any guarantee or commitment to guarantee its bonds or notes issued for the purpose of financing real property acquisition and land development pursuant to community development programs, accept any grant with respect to bonds or notes guaranteed and accept any public service grants for providing essential public services, including educational, health and safety services, and authorize and direct the execution on behalf of the authority of any agreement which it considers necessary or appropriate with respect thereto.

History: 1954 ACS 69, p. 7, Eff. Nov. 5, 1971.

R 125.111 Hearings.

Rule 111. (1) To inform itself and the public the authority may hold public hearings anywhere in the state and may limit the scope of such hearings.

(2) A person, firm, corporation, or public body or agency, aggrieved by a decision of the authority or the executive director, may request in writing that the authority hold a hearing in accordance with Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws.

History: 1954 ACS 69, p. 7, Eff. Nov. 5, 1971.

R 125.115 Bylaws.

Rule 115. The bylaws of the authority shall be adopted and amended by resolution and shall be public records. The bylaws shall include the time and place of regular meetings, the manner of calling special meetings and such internal procedures as the authority requires.

History: 1954 ACS 69, p. 7, Eff. Nov. 5, 1971.

R 125.119 Rescission.

Rule 119. The General Rules of the authority, as amended, being R 125.1 to R 125.73 of the Michigan Administrative Code and appearing on pages 4963 to 4969 of the 1969 Annual Supplement to the Code, page 5 of Supplement No. 63 to the Code and page 5 of Supplement No. 64 to the Code, are rescinded. This rescission shall not defeat or impair any right accrued, or affect any penalty incurred, under such rules, and applications pending with the authority may be amended to conform with these rules.

History: 1954 ACS 69, p. 7, Eff. Nov. 5, 1971.

PART 2. APPLICATIONS AND APPLICANT ELIGIBILITY

R 125.121 Applications.

Rule 121. (1) The authority staff may provide staff services to assist an applicant in complying with the requirements of the act and these rules. The executive director may establish a preapplication procedure.

(2) Forms to be employed for applications may be prepared by the authority staff and shall be approved by the executive director and shall specify the information to be included therein and the supporting materials to be submitted therewith.

History: 1954 ACS 69, p. 7, Eff. Nov. 5, 1971.

R 125.122 Eligible applicants.

Rule 122. (1) A development fund loan or mortgage loan, or part thereof, shall not be made or disbursed to an applicant until such time as the applicant is an eligible applicant.

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(2) An eligible applicant is an applicant authorized by the act to receive a development fund loan or a mortgage loan. In order to become an eligible applicant, an applicant shall obtain the authority's approval of its organizational documents, where applicable, as provided in R 125.123.

History: 1954 ACS 69, p. 8, Eff. Nov. 5, 1971.

R 125.123 Approval of organizational documents.

Rule 123. (1) Proposed articles of incorporation and proposed amendments to existing articles of incorporation of a nonprofit housing corporation, consumer housing cooperative, or limited dividend housing corporation, and the proposed partnership agreement, joint venture agreement, trust agreement, or other document then existing of a limited dividend housing association shall be submitted in duplicate originals to the executive director, together with a request for the authority's approval of the documents.

(2) The authority staff shall review such organizational documents to determine the compliance with the requirements of the act and these rules, and, if it is determined that the documents so comply, the executive director or other employee of the authority authorized by resolution of the authority shall issue, on behalf of the authority, a certificate of approval with respect to the organizational documents, on a form approved by the executive director.

History: 1954 ACS 69, p. 8, Eff. Nov. 5, 1971; 1954 ACS 94, p. 8, Eff. Dec. 17, 1977.

PART 3. DEVELOPMENT FUND LOANS AND FEASIBLE PROJECTS

R 125.131 Applications.

Rule 131. An application for a development fund loan or a determination that a proposed housing project is a feasible housing project, or both, shall include information and, where required by the authority staff, supporting materials and evidence, with respect to all of the following:

(a) The status of the applicant as an eligible applicant, or that reasonable steps have been taken to become an eligible applicant.

(b) The site of the proposed housing project, including location, dimensions, ownership, present zoning, present use and occupancy and relocation requirements as to present occupants, present on-site improvements, such as streets, utilities, and structures, status of off-site utilities and streets, present property taxes and assessments, utility charges, and liens or other charges on the land, and all physical characteristics of the site that may affect construction.

(c) The status and characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental, or cooperative), rehabilitation or new construction, range of proposed rents, occupancy charges or sale prices, building type, federally-aided mortgage or otherwise, and social, recreational, commercial, and communal facilities proposed to serve and improve the residential area in which the proposed housing is located or to be located.

(d) A schedule of the proposed uses of any requested development fund loan and the amounts proposed to be allocated to each such use.

(e) Other matters as to the proposed housing project, the applicant, and other parties involved in the housing project as the authority staff and the executive director may require.

History: 1954 ACS 69, p. 8, Eff. Nov. 5, 1971; 1954 ACS 94, p. 8, Eff. Dec. 17, 1977.

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R 125.132 Processing and evaluation of applications.

Rule 132. (1) An application for a development fund loan or a determination that a proposed housing project is a feasible housing project, or both, shall be processed by the authority staff on the basis of processing and underwriting procedures and guidelines developed by the authority staff under direction of the executive director on behalf of the authority.

(2) An applicant may be required to furnish to the authority staff supplementary information and to amend the application to cause the proposed housing project to be consistent with the authority's processing and underwriting procedures and guidelines.

(3) Upon completion of the processing and the approval of the application by the executive director, the authority staff analysis of the application and the executive director's recommendation with respect thereto shall be presented to the authority.

History: 1954 ACS 69, p. 8, Eff. Nov. 5, 1971; 1954 ACS 94, p. 9, Eff. Dec. 17, 1977.

R 125.133 Determinations of feasibility and authorization of loans.

Rule 133. (1) The authority shall review each analysis and recommendation, and, if it determines that the application meets the requirements of the act and these rules and is consistent with the authority's processing and underwriting procedures and guidelines, by resolution, it may determine that the proposed housing project is a feasible housing project or authorize a development fund loan to the applicant, or both.

(2) The resolution shall include determinations by the authority that:

(a) The proposed housing project will provide housing for persons of low and moderate income or will serve and improve the residential area in which authority financed housing is located or is planned to be located thereby enhancing the viability of such housing.

(b) The applicant is reasonably expected to be able to achieve successful completion of the proposed housing project.

(c) The proposed housing project will meet a social need in the area in which it is to be located.

(d) A mortgage loan, or a mortgage loan not made by the authority that is a federally-aided mortgage, can reasonably be anticipated to be obtained to provide financing for the proposed housing project.

(e) The proposed housing project is a feasible housing project, if a determination of feasible housing project status has been applied for.

(f) The development fund loan authorized thereby, if any, can reasonably be anticipated to be recoverable from the proceeds of a mortgage loan, or a mortgage loan not made by the authority that is a federally-aided mortgage, to be obtained to provide financing for the proposed housing project.

(3) The resolution may include such conditions as the authority considers appropriate with respect to an application for a mortgage loan as to such feasible housing project or the use, disbursement, and repayment of the development fund loan.

History: 1954 ACS 69, p. 9, Eff. Nov. 5, 1971; 1954 ACS 94, p. 9, Eff. Dec. 17, 1977.

R 125.134 Priorities for allocation of development fund monies.

Rule 134. Priorities for allocation of monies in the housing development fund available for development fund loans may be established and revised by the authority. Priorities shall be based on criteria established by the authority as best effectuating the purposes of the act including, without limitation, a determination

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by the authority of an area's need for housing for persons of low and moderate income as compared to the authority's determination of the overall housing needs of the state.

History: 1954 ACS 69, p. 9, Eff. Nov. 5, 1971.

PART 4. MORTGAGE LOANS

R 125.141 Applications.

Rule 141. An application for a mortgage loan shall include information, and where required by the authority staff, supporting materials, and evidence, with respect to all of the following:

(a) The status of the applicant as an eligible applicant.

(b) The site of the proposed housing project, including location, dimensions, ownership, present zoning, present use and occupancy and relocation requirements as to present occupants, present on-site improvements, such as streets, utilities, and structures, status of off-site utilities and streets, present property taxes and assessments, utility charges, and liens or other charges on the land, and all physical characteristics of the site that may affect construction.

(c) The status and characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental, or cooperative), rehabilitation or new construction, building type, federally-aided mortgage or otherwise, and social, recreational, commercial, and communal facilities proposed to serve and improve the residential area in which the proposed housing is or is to be located.

(d) Identity and qualifications of the design architect, supervisory architect, applicant's attorney, housing consultant, general contractor, marketing or sales agent, and management agent.

(e) Architectural drawings and specifications, site plan, schedule of construction costs, reports of soil tests or engineering studies performed, and evidence of approval of the architectural drawings, specifications, and site plan by governmental bodies having jurisdiction.

(f) Proposed marketing plan, reports of market surveys or analyses, schedule of proposed rents, occupancy charges or sale prices, proposed operating budget, proposed management plan, proposed relocation plan and cost analysis, schedule of the proposed uses of the requested mortgage loan and the amounts to be allocated to each such use including the applicant's equity investment, where applicable, and a proposed construction schedule.

(g) The applicant's compliance with, and the fulfillment of, the terms and conditions of any prior determination by the authority that the proposed housing project is a feasible housing project.

(h) The applicant's proposed plans for compliance with the nondiscrimination provisions of section 46 of the act and the proposed affirmative action plans for minority group employment in construction of the proposed housing project.

(i) Other matters as to the proposed housing project, the applicant, and other parties involved in the housing project as the authority staff and the executive director may require.

History: 1954 ACS 69, p. 9, Eff. Nov. 5, 1971; 1954 ACS 94, p. 9, Eff. Dec. 17, 1977.

R 125.142 Processing and evaluation of applications.

Rule 142. (1) An application for a mortgage loan shall be processed by the authority staff on the basis of the authority's processing and underwriting

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procedures and guidelines. The authority staff shall undertake such land appraisals, market surveys and analyses, reviews of the architectural design, site plan, and construction costs, materials and methods, and other matters as may be determined to be appropriate to insure that the proposed housing project is consistent with the authority's processing and underwriting procedures and guidelines.

(2) An applicant may be required to furnish the authority staff supplementary information and to amend the application to cause the proposed housing project to be consistent with the authority's processing and underwriting procedures and guidelines.

(3) Upon completion of the processing and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the authority.

History: 1954 ACS 69, p. 10, Eff. Nov. 5, 1971; 1954 ACS 94, p. 10, Eff. Dec. 17, 1977.

R 125.143 Authorization of mortgage loans.

Rule 143. (1) The authority shall review each analysis and recommendation, and, if it determines that the application meets the requirements of the act and these rules and is consistent with the authority's processing and underwriting procedures and guidelines, by resolution, it may authorize a mortgage loan to the applicant. The resolution may authorize the executive director to issue a separate authority mortgage loan commitment to the applicant with respect to the proposed housing project.

(2) The resolution shall include determinations by the authority that:

(a) The applicant is an eligible applicant.

(b) The proposed housing project will provide housing for persons of low and moderate income or will serve and improve the residential area in which authority-financed housing is located or is planned to be located thereby enhancing the viability of such housing.

(c) The applicant is reasonably expected to be able to achieve successful completion of the proposed housing project.

(d) The proposed housing project will meet a social need in the area in which it is to be located.

(e) The proposed housing project may reasonably be expected to be marketed successfully.

(f) All elements of the proposed housing project, including, without limitation, the ownership, design, construction, occupancy, management, and operation thereof, have been established in a manner consistent with the authority's processing and underwriting procedures and guidelines, except as to any such elements as are the subject of conditions as to the authorization of the mortgage loan as provided in R 125.144.

(g) In light of the estimated project cost of the proposed housing project, the amount of the mortgage loan authorized by such resolution is consistent with the requirements of the act as to the maximum limitation on the ratio of mortgage loan amount to estimated project cost.

History: 1954 ACS 69, p. 10, Eff. Nov. 5, 1971; 1954 ACS 94, p. 10, Eff. Dec. 17, 1977.

R 125.144 Conditions and special determinations in authorizations.

Rule 144. A resolution of the authority authorizing a mortgage loan or a mortgage loan commitment of the authority, the issuance of which is authorized by such a resolution, shall include such conditions as the authority considers appropriate with respect to the commencement of construction of the proposed

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housing project, the marketing and occupancy of such housing project and the use, disbursement, and repayment of the mortgage loan authorized. A resolution or mortgage loan commitment may include a financial analysis of the subject housing project, which shall establish the initial schedule of rents or occupancy charges, the approved budget for operation of the housing project, and the schedule of use of the proceeds of the mortgage loan. A resolution authorizing a mortgage loan to an applicant which is a limited dividend housing corporation or limited dividend housing association shall include a determination of the maximum reasonable and proper rate of return on the investment of the applicant in the proposed housing project, which determination shall be made upon a consideration of the then existing conditions in the housing industry and financial markets and rates of return then prescribed by other governmental agencies.

History: 1954 ACS 69, p. 11, Eff. Nov. 5, 1971.

R 125.145 Priorities for allocation of monies for mortgage loans.

Rule 145. Priorities for allocation of authority monies available for mortgage loans may be established and revised by the authority. Priorities shall be based on criteria established by the authority as best effectuating the purposes of the act, including, without limitation, a determination by the authority of an area's need for housing for persons of low and moderate income as compared to the authority's determination of the overall housing needs of the state.

History: 1954 ACS 69, p. 11, Eff. Nov. 5, 1971.

R 125.146 Mortgage loans to individuals.

Rule 146. (1) An application by an individual for a mortgage loan for long-term financing of a housing unit to be purchased by the individual shall include information, and where required by the authority staff, supporting materials and evidence with respect to the eligibility of the applicant and to the housing unit proposed to be purchased.

(2) An application for such a mortgage loan shall be processed by the authority staff and the authority staff's analysis of such application shall be presented to the executive director.

(3) The executive director shall review each such analysis, and, if he determines that the applicant is an eligible applicant and that the application meets the requirements of the act and these rules and is consistent with the authority's processing and underwriting procedures and guidelines as to the housing unit to be purchased, he may issue, on behalf of the authority and pursuant to resolution of the authority, the authority's mortgage loan commitment to the applicant with respect to the housing unit proposed to be purchased. The mortgage loan commitment shall contain terms, conditions, and requirements as the executive director considers appropriate, including, without limitation, conditions establishing that the purchase price of the subject housing unit, the method of making payments after the purchase thereof, the security afforded, and the interest rate and fees and charges, if any, to be paid by the eligible applicant shall at all times be sufficient to permit the authority to make the payments on its bonds and notes plus any administrative or other costs to the authority in connection with the transaction.

(4) The authority, by resolution, may authorize the execution on behalf of the authority of agreements with corporations, partnerships, individuals, financial institutions, or other entities, qualified to do business within this state, which agreements may provide that the authority shall make mortgage loans to individual eligible applicants for the long-term financing of housing units to be

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purchased by such applicants, which housing units are to be constructed by or with the assistance of an entity which is to be party to such an agreement.

History: 1954 ACS 69, p. 11, Eff. Nov. 5, 1971; 1954 ACS 94, p. 11, Eff. Dec. 17, 1977.

PART 5. DEVELOPMENT FUND GRANTS

R 125.151 Applications.

Rule 151. An application for a development fund grant shall include information, and where required by the authority staff, supporting materials and evidence, with respect to:

(a) The status of the applicant as a local community.

(b) The proposed housing or community development activities for which assistance in planning or implementation is being requested.

(c) The site upon and the neighborhood in which the housing project or housing development to which the housing or community development activities shall relate is, or is to be, located.

(d) The relation of the proposed housing or community development activities to the site upon which the housing project or housing development is, or is to be, located, and its relation to the housing project or housing development and the neighborhood in which the housing project or housing development is, or is to be, located.

(e) The total cost of the planned activities, the net costs to the applicant thereof, and a schedule of the proposed uses of the requested development fund grant and the amounts proposed to be allocated to each use.

(f) Other matters with respect to the proposal, the applicant and other parties involved therein as the authority staff and the executive director require.

History: 1954 ACS 69, p. 11, Eff. Nov. 5, 1971; 1954 ACS 94, p. 11, Eff. Dec. 17, 1977.

R 125.152 Processing and evaluation of applications.

Rule 152. (1) An application for a development fund grant shall be processed by the authority staff on the basis of the authority's evaluation factors.

(2) An applicant may be required to furnish to the authority staff supplementary information and to amend the application to cause the planned activities to be fully consistent with the authority's evaluation factors.

(3) Upon completion of the processing and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the authority.

History: 1954 ACS 69, p. 12, Eff. Nov. 5, 1971; 1954 ACS 94, p. 12, Eff. Dec. 17, 1977.

R 125.153 Authorization of development fund grants.

Rule 153. (1) The authority shall review each analysis and recommendation presented, and, if it determines that the application meets the requirements of the act and these rules and is consistent with the authority's evaluation factors, by resolution, it may authorize a development fund grant to the applicant in an amount not to exceed the net costs to the applicant of the plan.

(2) The resolution of the authority shall include determinations by the authority that:

(a) The applicant is a local community.

(b) The grant funds shall be used exclusively in planning for or implementing any of the following community or housing development activities:

(i) Land and building acquisition.

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(ii) Housing rehabilitation.

(iii) Capital improvements or modifications thereto, including streets, open space utilities, recreation or community centers, and parking facilities.

(iv) The provision of necessary supportive services.

(c) The plans for community or housing development reasonably relate to the site upon which a housing project or housing development is, or is to be, located, and reasonably relate to the housing project or housing development and the neighborhood in which the housing project or housing development is, or is to be, located.

(d) The applicant is reasonably expected to be able to implement successfully the proposal.

(e) The proposed activities shall meet a social need in the area in which they are to be operative.

(3) The resolution may include conditions which the authority considers appropriate with respect to the use and disbursement of the development fund grant.

History: 1954 ACS 69, p. 12, Eff. Nov. 5, 1971; 1954 ACS 94, p. 12, Eff. Dec. 17, 1977.

R 125.154 Priorities for allocation of development fund monies.

Rule 154. Priorities for allocation of monies in the housing development fund available for development fund grants may be established and revised by the authority. Priorities shall be based on criteria established by the authority as best effectuating the purposes of the act.

History: 1954 ACS 69, p. 12, Eff. Nov. 5, 1971.

PART 6. AUTHORITY LOAN DOCUMENTS

R 125.161 Authority loan documents.

Rule 161. (1) Forms of documents to be used with respect to development fund loans, mortgage loans, and the issuance and sale of authority notes and bonds shall be prepared, and may be revised and amended, by the authority staff under direction of the executive director on behalf of the authority, subject to legal requirements.

(2) The appropriate forms of such documents shall be employed with respect to all matters relating to development fund loans and mortgage loans.

History: 1954 ACS 69, p. 12, Eff. Nov. 5, 1971.

R 125.162 Remedies.

Rule 162. The authority reserves the right to pursue all remedies prescribed by law or in the act for breach or violation of any provision of any authority loan document described in R 125.161.

History: 1954 ACS 69, p. 12, Eff. Nov. 5, 1971.

PART 7. LAND ACQUISITION AND DEVELOPMENT

R 125.171 Land acquisition and development proposals.

Rule 171. (1) The authority staff may develop proposals for the use of monies in the land acquisition and development fund created by the act. Such a proposal may be for:

(a) The acquisition by grant, purchase, or otherwise of real property, which for purposes of this part 7 shall be defined as any interest, including a fee and leasehold interest, in land or improvements to land, or a portion thereof, by the authority under any of the following circumstances:

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(i) The real property may be suitable for a future housing development or housing project.

(ii) The real property is located in a residential area where the authority has financed or has planned to finance housing, and the proposed use of the real property shall improve the quality of the residential area by eliminating blight or provide needed public or commercial facilities.

(iii) The real property is so situated that the present or future use of the real property, if not acquired by the authority, shall adversely affect the value or marketability of the authority-financed housing project.

(b) Any of the following types of improvements to real property purchased or otherwise acquired for the purposes of the fund:

(i) Improvements that are necessary to place the real property in a safe, sanitary, and decent condition, including demolition, excavation, and landscaping.

(ii) Improvements to real property which is to be dedicated for the public use and enjoyment, including the installation of recreational facilities, benches, shelters, lighting, and walkways.

(iii) Improvements that are necessary to insure the planned development of the real property, including the installation of roads, sidewalks, sewers, and utilities.

(c) The payment of any of the following costs on real property purchased or being purchased with monies from this fund or acquired by gift, grant, or exchange for the purposes of this fund:

(i) The costs of property taxes, insurance premiums, interest, maintenance expenses, and other carrying charges on real property. Notwithstanding the provisions of section 42 of the act, during the period when real property is owned or is being purchased by the authority or its agent, the authority shall pay all property taxes levied against the real property unless a taxing jurisdiction exempts the real property from property taxes. The assessed valuation of the real property while it is owned or being purchased by the authority or its agent shall not be increased by any taxing jurisdiction, except to reflect the state equalization valuation process.

(ii) The costs of planning the development of the real property, including, but not limited to, the costs of economic feasibility studies, land use studies, site development planning, architectural and engineering design, market analysis and all related analyses, studies, and planning services.

(iii) The costs incurred in the transfer of real property, including brokerage and appraisal fees, recording expenses, and the costs of surveys and title insurance.

(d) The costs of improvements to real property permitted by section 24b(2) of the act.

(2) A proposal shall contain information as to the description and fair market value of any real property or interest therein proposed to be acquired and the proposed method of acquisition thereof, the nature and cost of any improvements proposed to be undertaken or carrying charges or transfer expenses proposed to be paid, the nature and cost of any planning of the development of real property proposed to be undertaken. A proposal, upon completion, and the executive director's recommendation with respect thereto shall be presented to the authority.

History: 1954 ACS 69, p. 12, Eff. Nov. 5, 1971; 1954 ACS 94, p. 12, Eff. Dec. 17, 1977.

R 125.172 Approval and implementation of proposals.

Rule 172. (1) The authority shall review a proposal and recommendation and, if it determines that the proposal meets the requirements of the act and these rules, by resolution, it may approve the proposal and authorize and direct the imple-

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mentation thereof and the use of appropriate monies of the authority in connection with the implementation.

(2) The resolution may provide that any real property or interest therein to be acquired by the authority may be acquired in the authority's name or through and in the name of a duly authorized agent of the authority. If any such real property or interest therein is to be purchased on land contract, option, or other form of deferred payment agreement, or subject to mortgages or other encumbrances, the authority, by the resolution, shall reserve monies in the land acquisition and development fund or authorization to issue notes and bonds, the aggregate amount of which equals the unpaid principal balance of such land contract, option, mortgage, or other encumbrance or deferred payment agreement plus any anticipated carrying charges, including without limitation, insurance premiums, interest, maintenance expenses, and property taxes. In the event that such acquisition is to be accomplished through a duly authorized agent of the authority, the authority shall require such agent to protect the authority's interest in the property and to convey the property interest therein to the authority upon the authority's request, and the records of the authority shall reflect the existence of, and the authority's rights in, the real property or interest therein.

History: 1954 ACS 69, p. 13, Eff. Nov. 5, 1971; 1954 ACS 94, p. 13, Eff. Dec. 17, 1977.

R 125.173 Sale or exchange of property of authority.

Rule 173. (1) The authority, by resolution, may authorize and direct the sale, assignment, transfer, conveyance, lease, mortgage, or other disposal or encumbrance of real or personal property or any interest therein, or part thereof, with respect to which monies from the land acquisition and development fund have been expended to any individual, firm, partnership or corporation, county, municipality, authority, or federal or state agency at such price and on such terms and conditions as meet the requirements of the act and are considered appropriate by the authority.

(2) The authority, by resolution, may authorize and direct the exchange of real property with respect to which monies from the land acquisition and development fund have been expended, if the authority determines that the real property proposed for acquisition meets the requirements of R 125.171(1)(a).

History: 1954 ACS 69, p. 13, Eff. Nov. 5, 1971; 1954 ACS 94, p. 14, Eff. Dec. 17, 1977.

PART 8. HOME IMPROVEMENT LOANS

R 125.181 Eligible applications.

Rule 181. An application for a home improvement loan shall satisfy the following requirements:

(a) An applicant shall be an individual fee owner or purchaser under a land contract of the residential structure to be improved or an individual member-shareholder in a nonprofit cooperative housing corporation which member-shareholder has a proprietary interest in a residential structure. The residential structure may be subject to a mortgage or other lien securing a debt. However, occupancy of the residential structure by the applicant shall not be required, except in the case of an individual member-shareholder in a nonprofit cooperative housing corporation.

(b) An applicant shall be a family which shall not have an adjusted annual income greater than $13,999.00.

(c) An applicant shall be a reasonable credit risk with the ability to pay the loan obligation, as determined by the authority and by the lending institution, if any, originating the loan on behalf of the authority.

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(d) The residential structure to be improved shall be not less than 20 years old, or in need of repair to correct damage resulting from a natural disaster, or to correct serious defects or deficiencies that are hazardous to health or safety, or to directly improve the energy efficiency of the residential structure. Improvements which directly improve energy efficiency are those which have as a central purpose the conservation of energy. With respect to residential structures which are less than 20 years old, only those improvements which come within the exceptions set forth herein are eligible home improvements.

(e) The residential structure to be improved shall not be in violation of applicable zoning ordinances or other applicable land use guidelines.

(f) The residential structure shall not contain more than 4 dwelling units.

(g) All families occupying dwelling units shall have an adjusted annual income not greater than $13,999.00.

(h) Home improvement loan proceeds shall be used to finance only new improvements upon, or in connection with, existing structures and shall not be used for the refinancing of an existing mortgage or debt, nor for the completion of an unfinished residential structure.

(i) All improvements shall be reasonably capable of being completed, except for causes beyond the applicant's reasonable control, such as fire, strike, and shortages of materials, within 6 months of the date of the first disbursement of funds pursuant to the home improvement loan. The authority may extend this period for an additional 6 months for good cause shown.

History: 1954 ACS 98, p. 4, Eff. Dec. 27, 1978.

R 125.182 Eligible improvements.

Rule 182. Improvements made with home improvement loan proceeds shall satisfy the following requirements:

(a) Improvements may be made in order to comply with applicable state, county, and municipal health, housing, building, fire prevention, and housing maintenance codes, or other public standards applicable to housing.

(b) Improvements may also be made which protect or improve the basic livability or utility of a residential structure, thereby making the residential structure safe, sanitary, or adequate. However, to be an eligible improvement, it shall be a permanent general improvement.

(c) An improvement shall be made in compliance with all applicable health, fire prevention, building, housing, and housing maintenance codes, and other public standards applicable to housing. However, no application for a home improvement loan for a dwelling unit occupied by the owner shall be denied solely because the improvements will not bring the dwelling unit into full compliance with all applicable codes and standards.

(d) Home improvement loan proceeds shall not be used for the payment, wholly or in part, of an assessment for public improvements. However, proceeds may be used for improvements which will bring an individual sewage disposal system, including septic systems, located on the residential real property improved by a residential structure into compliance with local, state, and federal environmental and sanitary standards.

(e) The authority may require that all contracts covering all or any portion of an improvement contain an authority-approved warranty on workmanship and materials.

History: 1954 ACS 98, p. 5, Eff. Dec. 27, 1978.

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R 125.183 General requirements.

Rule 183. A home improvement loan shall be made in compliance with the following requirements:

(a) The maximum principal loan amount, exclusive of financing charges are as follows:

(i) Fifteen thousand dollars for residential structures containing 1 dwelling unit.

(ii) Seven thousand five hundred dollars per dwelling unit for residential structures containing 2 to 4 dwelling units.

(b) The maximum loan term is 15 years and 32 days.

(c) The requirements of any loan subsidy or loan insurance program which the authority may utilize or participate in.

History: 1954 ACS 98, p. 5. Eff. Dec. 27, 1978.

R 125.184 Availability of loans.

Rule 184. In order to provide for the availability of home improvement loans on an equitable basis to qualified applicants in all geographic areas of this state, the authority shall implement the following allocation system:

(a) The authority shall invite all lenders which meet the authority's qualification requirements to participate as eligible sellers.

(b) The authority shall solicit from eligible sellers requests for home improvement loan note purchase commitments.

(c) The authority shall, to the extent feasible, allocate its commitments for the purchase of qualified home improvement loan notes on an equitable basis to all geographic areas of the state. In determining an equitable basis upon which to make allocations, the authority may utilize recognized enumerations of housing age, housing conditions, and family income.

(d) The authority shall take affirmative action to locate and contract with eligible sellers who will agree to originate home improvement loans for sale to the authority in those geographic areas which have not been adequately covered under the procedure set forth in subdivisions (a), (b), and (c) of this rule.

History: 1954 ACS 98, p. 5. Eff. Dec. 27, 1978.

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DEPARTMENT OF COMMERCE

JOB DEVELOPMENT AUTHORITY

GENERAL RULES

(By authority conferred on the job development authority by section 14(f) of Act No. 301 of the Public Acts of 1975, as amended, being §125.1714(f) of the Michigan Compiled Laws)

R 125.501 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 301 of the Public Acts of 1975, as amended, being §125.1401 et seq. of the Michigan Compiled Laws.

(b) "Applicant" means:

(i) In the case of a direct loan or participation loan, the business enterprise establishing or expanding the industrial facilities.

(ii) In the case of a loan guarantee, the financial institution requesting the loan guarantee.

(c) "Application" means a formal request under the act made on forms furnished by the authority and containing or being supported by such information and documentation as the authority requires, signed and sworn to by an authorized representative of the applicant designated by formal action of the applicant and consistent with its organizational documents.

(d) "Authority" means the Michigan job development authority created by the act.

(e) "Eligible applicant" means an applicant that legally can qualify for a direct loan, participation loan, or loan guarantee from the authority and has been approved by the authority. An eligible applicant may receive a loan only upon a determination by the authority in accordance with the act and with these rules.

(f) "Executive director" means the chief executive officer of the authority.

(g) "Project" means the application of project costs for industrial buildings and industrial machinery and equipment, the reasonable aggregate cost of which, in the opinion of the authority, exceeds $50,000.00.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 97, p. 9, Eff. Nov. 8, 1978.

R 125.502 Informal screening procedures.

Rule 2. The executive director may establish such informal screening procedures as he deems necessary and appropriate to assist potential applicants in understanding the programs offered by the authority and in determining minimal eligibility under the act and these rules. Such procedures may include the filing with the authority of information and supporting documentation on such forms as the executive director may require.

History: 1954 ACS 97, p. 10, Eff. Nov. 8, 1978.

R 125.503 Application for direct loan, participation loan, or loan guarantee; supporting materials and evidence.

Rule 3. An application for a direct loan, participation loan, or loan guarantee shall be verified and submitted to the authority by an applicant or its duly authorized representative and shall include, where applicable, information, and

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where required by the authority staff, supporting materials and evidence, with respect to and including, but not by way of limitation, the following:

(a) The form and nature of the applicant, whether a single proprietorship, corporation, firm, partnership, or other association or persons organized for industrial purposes or a public utility, local industrial development corporation, or economic development corporation.

(b) A description of the project together with a financial feasibility study.

(c) A current appraisal of the land by an appraiser deemed to be qualified by the authority or, in the case of an existing building to be acquired, of the land and building, including substantiation of comparables and photograph and map exhibits.

(d) Quotations from suppliers of the total cost of all machinery and equipment to be financed. Quotations shall be firm for a period of time sufficient to allow the processing of the application and disbursal of the funds for their purchase.

(e) In projects calling for the construction of new buildings, all estimates of construction costs shall be prepared by construction firms deemed to be qualified by the authority. All estimates shall be firm for a period of time sufficient to allow the processing of the application and disbursal of the funds for its acquisition.

(f) For each borrower, guarantor, endorser, or co-maker, all of the following:

(i) Audited profit and loss statements and balance sheets covering the last 5 fiscal years. If statements are not audited, a borrower shall submit signed statements certifying that the statements are true and correct and shall submit federal income tax returns for the preceding 5 years. The names and addresses of officers and principal shareholders, if a corporation, shall be included.

(ii) Current, independent credit reports and personal financial statements for each borrower, guarantor, endorser, or co-maker.

(iii) Details of business experience and background.

(g) Copies of purchase agreements, if applicable.

(h) In the case of a loan guarantee application only, a copy of the lender's loan agreement.

(i) Such other information as the executive director may reasonably request.

History: 1954 ACS 97, p. 10, Eff. Nov. 8, 1978.

R 125.504 Other sources of funds; demonstration.

Rule 4. An applicant shall demonstrate the other sources of funds, in the form of equity investment or other debt sources, or both, which, together with the funds for which application is being made, will be sufficient to complete the project.

History: 1954 ACS 97, p. 10, Eff. Nov. 8, 1978.

R 125.505 Application; processing.

Rule 5. (1) The executive director shall process an application and forward it to the authority with his analysis and recommendation.

(2) The authority may require an applicant to amend the application.

(3) Upon forwarding by the executive director of an application to the authority, the authority shall, at the next meeting of the authority, place the application on its agenda.

History: 1954 ACS 97, p. 10, Eff. Nov. 8, 1978.

R 125.506 Application; review.

Rule 6. The authority shall review and consider approval of an application for a direct loan, participation loan, or loan guarantee on the basis of effectuating the purposes of the act, including determination of all of the following:

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(a) That the applicant is an eligible applicant.

(b) That the eligible applicant reasonably can be expected to maintain a sound financial condition in the operation of the industrial facilities and to retire the principal and pay the interest on the loan made or guaranteed in accordance with the terms of the loan agreement.

(c) That the project is economically feasible with a reasonable expectation that the life of its economic feasibility will exceed the maturity of the loan or loan guarantee.

(d) That the project will create a sufficient number and type of jobs to justify authority participation in its financing.

(e) That the project feasibility is sufficient to allow the authority to borrow the funds required for its financing.

(f) That a project has been filed with the authority, along with a certified copy of a resolution of the governing body of the municipality in which the project is to be located approving the project plan and consenting to the location of the project.

(g) That the project and its development is economically advantageous to the state, that the provision to meet increased demand upon public facilities as a result of the project is reasonably assured, and that energy sources to support the successful operation of the project are adequate.

(h) That if the project shall have the effect of a transfer of employment from 1 municipality of this state to another in which the project is to be located, the authority has notified and consulted with the municipality from which employment would be transferred and that the municipality:

(i) Has by resolution given its consent and approval to the project or,

(ii) If no resolution of consent is received, the authority determines that both of the following circumstances exist:

(A) The project is necessary to the continued operation of the business enterprise within the state.

(B) The approval of the project will not impose undue hardship on the workers and the municipality from which the employment would be transferred.

(i) That other criteria have been met that the authority has determined will effectuate the purposes of the act.

History: 1954 ACS 97, p. 10, Eff. Nov. 8, 1978.

R 125.507 Direct loan funds and participation funds; conditions for use.

Rule 7. The authority shall prescribe conditions for the use of the direct loan funds; and shall jointly with the other participating lenders prescribe conditions for the use of participation funds, including the manner in which the loan proceeds are to be disbursed to the applicant.

History: 1954 ACS 97, p. 11, Eff. Nov. 8, 1978.

R 125.508 Establishment and revision of priorities to approved applicants; criteria.

Rule 8. The authority may establish and revise priorities to approved applicants based on criteria which best effectuate the purposes of the act, including, but not limited to, all of the following:

(a) Determination of the need within the state for the type of industrial facility proposed by the applicant.

(b) Determination of the public benefit afforded by the project and the effect the project would have on diversifying the state's economy.

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(c) Determination that the authority reasonably expects that the project can be funded on terms satisfactory to the authority.

History: 1954 ACS 97, p. 11, Eff. Nov. 8, 1978.

R 125.509 Contracts and loan documents.

Rule 9. (1) Contracts, agreements, and loan or loan guarantee documents shall be authorized by resolution of the authority.

(2) Contracts authorizing loans or loan guarantees may have provisions concerning the requirement for municipal government certification of satisfaction effectuating section 55 of the act.

(3) The authority may include any conditions authorized by law or within the authority's powers in any contract, loan, or loan guarantee documents.

(4) An applicant shall execute such documents as required by the authority to secure the loan or loan guarantee made to the applicant.

History: 1954 ACS 97, p. 11, Eff. Nov. 8, 1978.

R 125.510 Direct loans and participation loans; interest rates, fees, and payment schedules.

Rule 10. The authority shall establish the interest rate or fees, or both, and the schedule for payment of interest and principal on direct loans and shall, jointly with the other participating lenders, establish such rate or fees, or both, and the schedule on participation loans.

History: 1954 ACS 97, p. 11, Eff. Nov. 8, 1978.

R 125.511 Direct loan, participation loan, or loan guarantee; additional requirements.

Rule 11. In addition to any other requirements, the authority, in conjunction with a direct loan, participation loan, or loan guarantee, may require any of the following:

(a) A review or audit of financial statements and such other information as may be reasonably requested during the period of construction or acquisition and continuing while any portion of the loan made or guaranteed is outstanding.

(b) A physical inspection of the site and construction progress.

(c) Evidence of completion of certain percentages of construction before allocation of further funds.

History: 1954 ACS 97, p. 12, Eff. Nov. 8, 1978.

R 125.512 Remedies.

Rule 12. The authority reserves the right to pursue remedies prescribed by law or in the act for violation of any contract or agreement.

History: 1954 ACS 97, p. 12, Eff. Nov. 8, 1978.

R 125.513 Hearings.

Rule 13. (1) To inform itself and the public, the authority may call public hearings anywhere in the state and may limit the scope of the hearings.

(2) A person, firm, corporation, or public body or agency aggrieved by a decision of the authority may make a request in writing to the authority for hearing in accordance with Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 97, p. 12, Eff. Nov. 8, 1978.

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DEPARTMENT OF LABOR

BARRIER FREE DESIGN BOARD

BARRIER FREE DESIGN REQUIREMENTS

(By authority conferred on the barrier free design board by section 4 of Act No. 1 of the Public Acts of 1966, as amended, being §125.1354 of the Michigan Compiled Laws)

R 125.1001 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 1 of the Public Acts of 1966, as amended, being §125.1351 et seq. of the Michigan Compiled Laws. The terms defined in the act shall have the same meaning when used in these rules.

(b) "Barrier free design requirements" means the requirements set forth in the code.

(c) "Board" means the barrier free design board created by section 5 of the act, or an authorized agent of the board.

(d) "Business day" means any day except Saturday, Sunday, or a state holiday.

(e) "Code" means the state construction code promulgated pursuant to Act No. 230 of the Public Acts of 1972, as amended, being §125.1501 et seq. of the Michigan Compiled Laws. The terms defined in the code shall have the same meaning when used in these rules.

(f) "Day" means a calendar day.

(g) "Party" means, not by way of limitation, a public or private agency, a person, firm, corporation, or nonprofit corporation or organization.

(h) "Presiding officer" means the board, 1 or more board members, or 1 or more hearing officers designated by the board.

History: 1954 ACS 91, p. 5, Eff. June 10, 1977.

R 125.1002 Plans and specifications; preliminary review; findings; modification; exception.

Rule 2. (1) A party may submit plans and specifications, including those for site development, for preliminary review by the appropriate administrative authority, being either the department of management and budget, department of education, department of labor, or a local unit of government having the duty and responsibility of issuing building permits.

(2) Upon completion of the preliminary review, the appropriate administrative authority shall notify in writing the party submitting the plans or specifications, or both, of the review findings. Not more than 15 days after receipt shall be allowed for the review of plans and specifications by the appropriate administrative authority.

(3) If the appropriate administrative authority finds that the plans and specifications comply with the barrier free design requirements, a party submitting the plans may proceed pursuant to the procedure in R 125.1003.

(4) Upon receiving notice that plans and specifications submitted do not comply with barrier free design requirements, a party may modify the plans and specifications to comply with the requirements, or submit an application for exception

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(5) Exceptions to the barrier free design requirements shall be granted only pursuant to R 125.1004.

History: 1954 ACS 91, p. 6, Eff. June 10, 1977.

R 125.1003 Plans and specifications; final review; notice of noncompliance; modification; application for exception; notice of compliance; building permit; changes after approval; review.

Rule 3. (1) Completed plans and specifications, including those for site development, shall be forwarded by a party to the appropriate administrative authority for approval.

(2) Plans and specifications forwarded to an administrative authority for barrier free design approval shall be pursuant to Act No. 240 of the Public Acts of 1937, as amended, being §338.551 et seq. of the Michigan Compiled Laws.

(3) Not more than 15 days after receipt shall be allowed for the review of plans and specifications by the appropriate administrative authority.

(4) Upon completion of the review, the appropriate administrative authority shall notify the party in writing of any plans or specifications which do not comply with the barrier free design requirements. Upon receipt of a notice of noncompliance, the party may modify the plans and specifications to comply with the barrier free design requirements and resubmit them to the appropriate administrative authority for review, or submit an application for exception to the board pursuant to R 125.1004.

(5) If the completed plans and specifications comply with the barrier free design requirements, then notice in writing shall be given to the party submitting such plans and specifications. The issuance of a building permit shall constitute such notice.

(6) If there are proposed changes in the plans and specifications after final review and approval of the design which affect the implementation of the barrier free design requirements, the changed plans and specifications shall be submitted to the appropriate administrative authority for review.

History: 1954 ACS 91, p. 6, Eff. June 10, 1977.

R 125.1004 Application for exception; form; review.

Rule 4. (1) Upon receiving notice that plans and specifications submitted for preliminary or final review do not comply with the barrier free design requirements, an application for an exception to the barrier free design requirements may be submitted to the board by a party.

(2) An application for an exception shall be on a form containing all information so designated by the board, and shall be accompanied by detailed building or site drawings of nonconforming areas on 8½-inch by 11-inch sheets of paper. Dimensioned, lined drawings to scale are sufficient. Photographs or a brief written explanation, or both, may be included.

(3) An application for an exception to the barrier free design requirements shall be mailed or delivered to the office of the Barrier Free Design Board, Department of Labor, State Secondary Complex, 7150 Harris Drive, Box 30015, Lansing, Michigan, 48909.

(4) Upon receipt of the application for an exception, personnel so designated by the board shall review the application within 15 days.

(5) An applicant who has been notified of noncomplying plans and specifications, has the right to a hearing before the board.

History: 1954 ACS 91, p. 6, Eff. June 10, 1977.

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R 125.1005 Hearing; notice; presiding officer.

Rule 5. (1) Within 7 business days after receipt of a request for a hearing, the board shall give notice of the hearing to the necessary parties. The notice shall include the date, time, place, and nature of the hearing.

(2) The notice of a hearing shall be mailed not less than 15 days before the date of the hearing.

(3) A hearing shall be conducted by the presiding officer pursuant to Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws.

(4) The board before making a final hearing decision shall review plans submitted to personnel so designated by the board.

History: 1954 ACS 91, p. 7, Eff. June 10, 1977.

R 125.1006 Complaint; investigation; dismissal of complaint; determination of noncompliance; notice; right to hearing; waiver.

Rule 6. A complaint of noncompliance shall be in writing and filed with the appropriate administrative authority, which shall send a copy of the complaint to the party against whom the complaint was made. If an investigation results in a determination that the complaint is without merit, the complaint shall be dismissed by the appropriate authority and written notice shall be given to the party making the complaint and the party against whom the complaint was made. If an investigation reveals evidence of noncompliance, the party against whom the complaint was made shall be given notice of opportunity to show compliance. Response to the notice of opportunity to show compliance shall be in writing or at an informal conference with the board's representative. If such response does not dispose of the matter, the party against whom the complaint was made shall be sent a notice of the right to a formal hearing before the board. The failure to request a hearing before the board within 15 days after receipt of the noncompliance notice shall constitute a waiver of the right to a hearing before the board. An appropriate administrative authority which receives a complaint of noncompliance pursuant to the act shall establish necessary administrative procedures, which shall include forwarding to the board copies of all complaints, investigation reports, and final dispositions of the matters within 30 days after the receipt of the complaint. The party who made the complaint and the party against whom the complaint was made shall be notified of the final disposition of the complaint.

History: 1954 ACS 91, p. 7, Eff. June 10, 1977.

R 125.1007 Complaint; filed with board; procedure; notice of decision; correction time limit.

Rule 7. A written complaint of noncompliance also may be filed with the board, which shall follow the procedure set forth in R 125.1006. An investigation of a noncompliance complaint shall be conducted by personnel so designated by the board. A hearing shall be conducted by personnel so designated by the board. A hearing shall be conducted by the presiding officer pursuant to Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws. Written notice of the hearing decision shall be mailed to the party against whom the complaint was made and the complainant by the board. If the hearing results in a finding of noncompliance, the party shall correct the noncompliance within 30 days after notice is mailed by the board.

History: 1954 ACS 91, p. 7, Eff. June 10, 1977.

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R 125.1008 Extension; correction; legal remedies.

Rule 8. If the noncomplying party can prove, to the satisfaction of the appropriate administrative authority or the board, extenuating circumstances that prevent compliance within 30 days after notice is mailed, the appropriate administrative authority or the board may grant such party an additional 60 days to correct the noncompliance. After the time granted has elapsed and the noncompliance has not been corrected, the board or the appropriate administrative authority may pursue the legal remedies set forth in section 6 of the act.

History: 1954 ACS 91, p. 7, Eff. June 10, 1977.

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DEPARTMENT OF COMMERCE

MOBILE HOME COMMISSION

MOBILE HOME CODE

(By authority conferred on the mobile home commission by sections 4, 5, 9, 22 to 25, 27, and 38 of Act No. 419 of the Public Acts of 1976, as amended, being §§125.1104, 125.1105, 125.1109, 125.1122 to 125.1125, 125.1127, and 125.1138 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 125.1101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Act" means Act No. 419 of the Public Acts of 1976, as amended, being §125.1101 et seq. of the Michigan Compiled Laws.

(b) "Advertising" means the publication, or causing to be published, of all material which is prepared for public distribution and consumption, by any means of communication. The term does not include stockholder communications, such as annual reports, interim financial reports, proxy materials, registration statements, securities, business or financial prospectuses, and applications for licensing.

(c) "Binding date" means 5 business days after the date a purchaser of a mobile home receives a legible copy of the executed purchase agreement, or if within 5 business days an application for a mobile home certificate of title is executed, at the time of execution.

(d) "Bureau" means the corporations and securities bureau of the department of commerce.

(e) "Certificate of mobile home title" means a document issued by the department or its authorized representative that establishes lawful transfer and ownership of a mobile home.

(f) "Commission" means the mobile home commission.

(g) "Consignment" means the commitment of a mobile home to a mobile home dealer, by a commercial or private owner, for the purpose of sale.

(h) "Consumer" means a purchaser.

(i) "Consumer deposit" means the payment of cash, personal check, money order, certified or cashier's checks, or similar instrument or other collateral or security paid by the consumer for the right to purchase a mobile home subject to return upon cancellation of the purchase agreement.

(j) "Cost" means the actual price paid by a mobile home dealer to a manufacturer for a specific mobile home as that price appears on the dealer invoice received from the manufacturer.

(k) "Dealer termination" means the permanent closing of a mobile home dealership.

(l) "Delivered," for the purpose of these rules, means that all documents pertaining to the sale of a mobile home, including consumer deposits, shall be considered received when deposited with the U.S. postal service for mailing by certified mail.

(m) "Director" means the director, mobile home section, corporations and securities bureau, department of commerce.

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(n) "Down payment" means all partial payments, whether made in cash or otherwise, received by or for the benefit of the seller prior to, or substantially contemporaneous with, either the execution of the installment sale contract or the delivery of the goods sold thereunder, whichever occurs later.

(o) "Mobile home broker" means a person who, with intent to collect or receive a commission, sells or offers for sale, buys or offers to buy, lists or offers to list, or negotiates the purchase of, a used mobile home or does any of the following:

(i) Engages in more than 5 used mobile home sales in any 12-month period.

(ii) Holds himself out to the public as being principally engaged in the brokering of mobile homes.

(iii) Derives over 50% of his net annual income for 3 consecutive years from the brokering of mobile homes.

(iv) Devotes 50% of his working time, or more than 15 hours per week in any 6-month period, to the brokering of mobile homes.

(p) "Purchase agreement," for the purpose of records maintained under these rules, means an express written agreement in which a person agrees to buy, and another person agrees to sell, a mobile home and includes, but is not limited to, specific mobile home identification information, the agreed price of the mobile home, price of each buyer-selected option and accessory, and other costs to the buyer, such as insurance, finance charges, taxes, and title fees. This agreememt may be used to quote a price or as a receipt for down payment. All conditions of sale shall be included in the purchase agreement.

(q) "Retail sale," for the purpose of these rules, means to sell a mobile home, accessory, or item of equipment directly to a consumer.

(r) "Successor" means a person who succeeds to all rights and powers of a former owner.

(s) "Type 1 license" means a license issued to a person by the commission allowing the person to maintain a mobile home dealership and a mobile home brokerage.

(t) "Type 2 license" means a license issued to a person by the commission allowing the person to only engage in the brokering of used mobile homes.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 96 p. 10, Eff. July 12, 1978; 1954 ACS 100, p. 5, Eff. Sept. 5, 1979.

R 125.1105 Commission; voting; advisor.

Rule 105. Each member of the commission shall have 1 vote. An advisor to the commission may participate in all commission activities, but shall not have a vote.

History: 1954 ACS 96, p. 11, Eff. July 12, 1978.

R 125.1110 Commission; meeting; quorum; agenda.

Rule 110. (1) A quorum shall be required for the conduct of commission business.

(2) A quorum of the commission shall be a majority of the commission members.

(3) The chairperson shall determine the meeting agenda with the director. A member may place an item on the agenda 7 days before the scheduled meeting date.

(4) A meeting shall be called by the chairperson. Except in emergency circumstances, the call for a meeting, specifying the time and place of the meeting, shall be personally communicated or mailed to the business or home

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address of each member of the commission not less than 7 days before the date of the meeting.

(5) The vice-chairperson shall fulfill the duties of the chairperson if the chairperson is absent.

(6) The chairperson shall appoint committees of the commission.

(7) A quorum of a committee shall be a majority of the committee members.

(8) A meeting shall be conducted pursuant to Robert's Rules of Order.

History: 1954 ACS 96, p. 11, Eff. July 12, 1978.

R 125.1115 Commission; meeting; public participation; public hearing.

Rule 115. (1) A member of the public may attend meetings of the commission.

(2) During a commission meeting, a member of the public may participate in the discussion of an agenda item if the consideration of that agenda item is before the commission.

(3) Testimony by a member of the public shall be given in the same manner as at a public hearing.

(4) Testimony or comments, or both, presented by a member of the public during public hearing shall be limited to 10 minutes for a person representing an organization and limited to 5 minutes for a person not representing an organization. The person presiding over the hearing may grant 10 additional minutes to anyone. Additional comments may be submitted to the commission in writing.

History: 1954 ACS 96, p. 11, Eff. July 12, 1978.

R 125.1120 Proposed higher standard; filing; approval and disapproval; adoption by ordinance.

Rule 120. (1) Pursuant to section 7(1) of the act, local governments proposing a higher standard than promulgated by these rules shall, after public hearing, file the proposed standard with the commission for review and approval.

(2) The filing shall be in letter form and shall contain, but not be limited to, the following:

(a) A statement pertaining to the current specific standard for which a higher standard is being proposed.

(b) The proposed higher standard.

(c) A statement or statements pertaining to why the local government requires a higher standard than the existing standard.

(d) A statement or statements that the proposed higher standard is not designed to generally exclude mobile homes or persons who engage in any aspect pertaining to the business of mobile homes.

(e) Any other information and data that provides justification for the proposed higher standard.

(3) The commission shall approve or disapprove the proposed higher standard within 60 days after filing with the commission and shall notify, in writing, the local government of its decision. If the commission denies the request, the local unit of government is entitled to a hearing before the commission or its designated representative pursuant to R 125.1135.

(4) If the commission does not approve or disapprove the proposed higher standard within 60 days after filing with the commission, the standard shall be considered approved unless the local government has granted the commission additional time to consider the proposal.

(5) After receipt of approval, or if the 60 days or extended time limit has lapsed, the local government may adopt the standard by ordinance.

History: 1984 ACS 28, p. 6, Eff. Feb. 28, 1979.

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R 125.1125 Proposed higher standard; intent to deny; order.

Rule 125. (1) The commission may deny a proposed higher standard by local government pursuant to section 7(1) of the act. Before issuing an order of intent to deny, the commission shall notify the local government by certified mail or personal delivery of its intent and the reasons for denial. This notice shall constitute notification within the 60-day time limit, and extension if any, pursuant to the act.

(2) The order of intent to deny shall automatically be effective after 15 days following the date of mailing of the notice of intent to deny unless the local government requests, in writing, a hearing before the commission pursuant to section 71 of Act No. 306 of the Public Acts of 1969, as amended, being §24.271 of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 6, Eff. Feb. 28, 1979.

R 125.1130 Enacting ordinances designed as exclusionary to mobile homes prohibited; proposed higher standard; aggrieved persons; hearing.

Rule 130. (1) Pursuant to section 7(2) of the act, a municipality or a local government, as defined in the act, shall not enact ordinances that are designed as generally exclusionary to mobile homes.

(2) A municipality or local government which proposes a higher standard than that in the act or in these rules shall comply with R 125.1120.

(3) A person aggrieved by any local action which becomes final shall be given an opportunity for a hearing by the commission to review the local decision pursuant to sections 4(c) and (d), 7, and 18(5) of the act.

History: 1954 ACS 98, p. 7, Eff. Feb. 28, 1979.

R 125.1135 Hearing; notice and conduct.

Rule 135. (1) Upon notice of request for hearing by an aggrieved party, the commission shall, without undue delay, set the time and date for the hearing.

(2) The local government shall be notified of the time, date, and location of the hearing by certified mail or personal delivery at the address that appears on the original request for review of a proposed higher standard. The notice of hearing shall not be sent less than 20 days before the hearing date.

(3) The hearing shall be open to the public and shall be conducted in accordance with Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws.

(4) The hearing shall be conducted by a presiding officer who shall be appointed by the commission. The decision of the commission shall be the final decision.

History: 1954 ACS 98, p. 7, Eff. Feb. 28, 1979.

R 125.1140 Hearing; appearances; adjournment or continuance; statements and briefs; service.

Rule 140. (1) A local government shall be represented by a duly authorized agent.

(2) If a local government or its authorized agent fails to appear after proper service of notice, the presiding officer, if no adjournment is granted, may proceed with the hearing and make a proposal decision in the absence of the party or parties.

(3) A prior adjournment or continuance may be granted by the commission or the person it designates for good cause shown by a party to the hearing or on motion or after stipulation and agreement between all parties. A request for

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adjournment by a local government shall be made in writing not less than 5 days before the date set for the hearing.

(4) A local government or its authorized agent may file a written statement or brief or may present an oral statement at the time of the hearing. Copies of written statements and briefs shall be served on the commission, or its designated agent, and all other parties not less than 5 days before the date set for the hearing.

History: 1954 ACS 98, p. 7, Eff. Feb. 28, 1979.

R 125.1145 Intervention.

Rule 145. (1) A person not defined in the rules as an applicant, petitioner, or respondent, but who claims an interest in a proceeding, may petition for leave to intervene in the proceeding. An original and 2 copies of the petition to intervene shall be filed with the commission not less than 5 days prior to the date set for hearing, and the petition, when filed, shall show service of copies thereof upon all parties to the proceeding.

(2) A petition to intervene shall set out clearly and concisely the facts supporting the petitioner's alleged right or interest, the grounds of the proposed intervention, and the position of the petitioner in the proceeding, so as to fully and completely advise the parties and the commission of the specific issues of fact or law to be raised or controverted. The commission may grant a petition to intervene if it appears that intervention is in the public interest and that a leave to be heard is an inadequate participation in the proceeding.

(3) A petition to intervene which is not timely filed with the commission or presiding officer shall not be granted unless the denial of the petition is shown to be detrimental to the public interest or is shown to be likely to result in a miscarriage of justice, and unless all parties, excluding intervenors, have an adequate opportunity to file answers as hereinafter set forth and to be heard with respect thereto.

History: 1954 ACS 98, p. 7, Eff. Feb. 28, 1979.

R 125.1150 Leave to be heard.

Rule 150. (1) A person may, at the discretion of the commission or the presiding officer, be given leave to be heard in a proceeding as to an issue affecting the person's interests. A request for leave to be heard shall be in writing, shall set forth the nature and extent of the applicant's interest in the proceeding, and, except where good cause for late filing is shown, shall be filed not later than 2 days prior to the date fixed for the commencement of the hearing. The presiding officer may direct that persons requesting to be heard to submit themselves to examination as to their interest in the proceeding.

(2) A person granted a leave to be heard shall have only those rights as the commission or the presiding officer may deem appropriate.

History: 1954 ACS 98, p. 7, Eff. Feb. 28, 1979.

R 125.1155 Amicus curiae briefs.

Rule 155. In a contested case hearing, any person may submit an amicus curiae brief to the commission or the presiding officer. The brief shall be filed not more than 30 days after the hearing officer's proposed findings of fact and conclusions of law are transmitted to the commission. In a case heard by the commission, and in all other instances, the briefs shall be filed not more than 30 days after the conclusion of the hearing.

History: 1954 ACS 98, p. 8, Eff. Feb. 28, 1979.

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R 125.1160 Consolidation and conduct of proceedings.

Rule 160. (1) By order of the commission or by ruling of the presiding officer, a proceeding involving a question of law or fact in common with another proceeding may be joined with that other proceeding for a hearing of any or all matters in issue in the proceeding, and the proceedings may be consolidated.

(2) The commission or presiding officer may make orders concerning the conduct of the proceedings and shall avoid unnecessary costs or delays.

History: 1954 ACS 98, p. 8, Eff. Feb. 28, 1979.

R 125.1165 Testimony; depositions.

Rule 165. (1) Testimony shall be under oath or affirmation.

(2) A deposition shall be taken only on order of the commission or its authorized agent upon a showing that it is impracticable or impossible to obtain necessary evidence otherwise. It shall be taken in accordance with provisions for taking depositions in civil cases, as set forth in the Michigan general court rules or other applicable court rules.

History: 1954 ACS 98, p. 8, Eff. Feb. 28, 1979.

R 125.1170 Decisions, orders, and rehearings.

Rule 170. (1) Within a reasonable time after completion of a hearing, the commission shall send by certified mail or personal delivery to the last known address of the parties the decision and orders, which shall include findings of fact and conclusions of law.

(2) A rehearing may be granted by the commission upon application in writing by a local government or any other party to the hearing or upon its own motion in accordance with Act No. 306 of the Public Acts of 1969, as amended. A rehearing shall be noticed and conducted in the same manner as an original hearing.

History: 1954 ACS 98, p. 8, Eff. Feb. 28, 1979.

R 125.1175 Declaratory rulings.

Rule 175. (1) The commission and the bureau, on request of an interested person, may issue a declaratory ruling as to the applicability to an actual statement of facts of the act or a rule promulgated under the act upon submission to either party of the following:

(a) A clear and concise statement of the actual statement of facts.

(b) If the interested person desires, a brief or other reference to legal authorities relied upon for determination of the applicability of the act or rule to the statement of facts.

(2) The commission and the bureau, if they determine they will issue a declaratory ruling, shall furnish the person with a statement to that effect and establish the time in which they will issue the ruling.

(3) A ruling shall repeat the actual statement of facts, the legal authority on which the commission relies for its ruling, if any, and the ruling it makes.

(4) A ruling, once issued, is binding on the commission and the bureau, and may not be retroactively changed, but this rule does not prohibit the commission and the bureau from changing a ruling in the future.

History: 1954 ACS 98, p. 8, Eff. Feb. 28, 1979.

R 125.1190 Inspections.

Rule 190. (1) The department or its authorized representative shall not conduct an inspection pursuant to this act or the rules promulgated thereunder without first identifying itself to the developer, owner, or operator of the mobile home business to be inspected. "Inspections," for the purpose of this rule, means, but is not limited to, drive-throughs, walk-throughs, compliance inspections, or

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any other means from which visual or oral information would be obtained pertaining to the management or operation, or both, or any other aspect of the mobile home business in which the person being inspected is engaged.

(2) This rule does not apply to investigations conducted under the authority of section 36(1)(a) of the act.

History: 1954 ACS 98, p. 8, Eff. Feb. 28, 1979.

R 125.1195 Credit reporting.

Rule 195. A person applying for an initial license pursuant to the act or these rules shall have a credit reporting agency forward a credit report on the applicant to the department as part of the application process. Credit reports shall be for the confidential use of the agency only and shall not be available for public inspection pursuant to section 13(1)(a) of Act No. 442 of the Public Acts of 1977, being §15.243(1)(a) of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 9, Eff. Feb. 28, 1979.

R 125.1200 Partnership disclosure.

Rule 200. (1) Pursuant to section 38 of the act, when filing an application under the act or these rules, a limited partner in a partnership shall be required to provide only the following information:

(a) Disclosure of any conviction or administrative or civil judgment rendered against the limited partner within 10 years before the date of the application in connection with any aspect of the business of mobile homes which includes, but is not limited to, sales; brokering; installation and repair; financing and insuring mobile homes; and any aspect of mobile home park ownership, management, and operation, or development and construction.

(b) Disclosure of any conviction or administrative or civil judgment rendered against the limited partner within 10 years before the date of application in connection with a violation of a statute regulating the offering of securities or franchises or regulating builders, real estate brokers, or real estate salespersons, or of a violation of Act No. 286 of the Public Acts of 1972, as amended, being §565.801 et seq. of the Michigan Compiled Laws.

(c) A criminal record check on a form provided by the commission.

(2) A general partner shall provide a current financial statement, a credit report, and the disclosures required under subrule (1) of this rule.

History: 1954 ACS 98, p. 9, Eff. Feb. 28, 1979.

R 125.1200a Additional licenses; filing of information.

Rule 200a. If an applicant holds a license issued under the act and subsequently applies for an additional license issued under the act, the applicant shall be required to file only that information not on file with the bureau in addition to the appropriate application and fee.

History: 1954 ACS 100, p. 48, Eff. Sept. 5, 1979.

PART 2. DEALERS

R 125.1201 Application; form; filing.

Rule 201. A completed original application shall, on the form prescribed by the commission, be filed with the department not less than 30 days before the date on which the applicant wishes to engage in retail sales.

History: 1954 ACS 68, p. 71, Eff. July 12, 1978.

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R 125.1202 Application; answering questions truthfully.

Rule 202. An applicant for a license under the act shall answer all questions on the application truthfully and shall not misrepresent any material fact on the application.

History: 1954 ACS 98, p. 11, Eff. July 12, 1978.

R 125.1203 Application; filing as successor.

Rule 203. If an applicant files an application for the license as a successor, whether or not the successor is then in existence, the application shall meet all requirements of an original application.

History: 1954 ACS 98, p. 12, Eff. July 12, 1978.

R 125.1204 Applications; changes, additions, or corrections.

Rule 204. All changes, additions, or corrections to the original application, including, but not limited to, changes in business address, officers, and directors, shall be filed with the department within 10 days after the change or changes are made.

History: 1954 ACS 98, p. 12, Eff. July 12, 1978.

R 125.1205 Surety bonds; cancellation.

Rule 205. (1) A surety bond of $10,000.00 or a deposit of $10,000.00 in cash or securities, made out to the People of the State of Michigan, on forms prescribed by the commission, is required for each dealership location and shall accompany an application for a dealer's license.

(2) Cancellation of the surety bond required by subrule (1) is cause for suspension or revocation of a dealer license.

History: 1954 ACS 98, p. 12, Eff. July 12, 1978.

R 125.1206 Financial statement.

Rule 206. An applicant shall prepare and submit to the department a notarized financial statement of the corporation, or each partner of a partnership, or an individual on a form prescribed by the commission.

History: 1954 ACS 98, p. 12, Eff. July 12, 1978.

R 125.1207 License for each location required; application for more than 1 license.

Rule 207. An applicant shall secure a license for each location from which it proposes to operate. If an applicant applies for more than 1 dealer's license concurrently, or within 6 months of the original application date, the commission shall require the applicant to file 1 original application form with appropriate fees for each license, but the department may waive the requirement of including supporting documents.

History: 1954 ACS 98, p. 12, Eff. July 12, 1978.

R 125.1208 Original license required to engage in retail sale of mobile homes; duplicate license.

Rule 208. A dealer shall not engage in the retail sale of mobile homes until the dealer receives an original license, issued and approved by the commission, from the department on original application. A duplicate license shall be issued on submission of a verified statement of loss of the original license to the commission.

History: 1954 ACS 98, p. 12, Eff. July 12, 1978.

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R 125.1209 License; issuance generally.

Rule 209. A dealer's license may be issued to an individual, partnership, association, trust, or corporation, or any other legal entity, or combination thereof, which meets the requirements of the act and these rules.

History: 1954 ACS 96, p. 12, Eff. July 12, 1978.

R 125.1210 License; issuance to person under age 18 prohibited.

Rule 210. A dealer's license shall not be issued to a person who is under the age of 18.

History: 1954 ACS 96, p. 12, Eff. July 12, 1978.

R 125.1211 License; issuance to limited partnership.

Rule 211. A dealer's license shall not be issued to a limited partnership if the person who applies for the license on behalf of the limited partnership is not a general partner.

History: 1954 ACS 96, p. 12, Eff. July 12, 1978.

R 125.1212 License; request for renewal.

Rule 212. A request for the renewal of a dealer's license shall be on a form provided by the commission and shall be accompanied by a certification of bonding, a notarized financial statement as provided in R 125.1206, and the fee specified in section 21 of the act.

History: 1954 ACS 96, p. 12, Eff. July 12, 1978.

R 125.1213 Temporary original license.

Rule 213. The commission may authorize or issue temporary original licenses, containing such information as the commission prescribes, as evidence of proper licensing.

History: 1954 ACS 96, p. 12, Eff. July 12, 1978.

R 125.1214 Operation after expiration of license.

Rule 214. A licensee may continue to operate as previously licensed using only his expired wall license as evidence of proper licensing if his completed application for renewal, with proper fee, has been received by the department prior to September 30. A licensee or an applicant for a new license, whose application is received by the department after September 30, shall not operate until he receives a current license.

History: 1954 ACS 96, p. 13, Eff. July 12, 1978.

R 125.1215 Employment of person whose license is suspended.

Rule 215. A dealer shall not employ a person whose license has been suspended under this act during the time of the suspension.

History: 1954 ACS 96, p. 13, Eff. July 12, 1978.

R 125.1216 Advertising; prohibited acts.

Rule 216. A mobile home dealer, in connection with the sale of mobile homes, equipment, or accessories, shall not, directly or indirectly, engage in any of the following acts:

(a) Advertise a mobile home for sale if the name of the dealership does not appear in the advertisement. A mobile home consigned by a private party to a dealer for sale may be advertised if the offer visibly states that the mobile home is "offered on consignment."

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(b) Advertise a mobile home and offer any year, make, type, model, serial number, fixed location, price, equipment or terms, or to make a claim or condition to the sale of a mobile home which is not truthful.

(c) Advertise the terms "close out," "final clearance," or "going out of business," or similar terms, in connection with mobile home sales, without clarification if this is not the case. A dealer who is going out of business shall comply with the provisions of Act No. 39 of the Public Acts of 1961, being §§442.211 to 442.225 of the Michigan Compiled Laws.

(d) Advertise the term "authorized dealer" if the dealer is not a manufacturer's authorized dealer or shall not advertise as a franchised dealer when the dealer is not a registered franchised dealer under Act No. 269 of the Public Acts of 1974, being §§445.1501 to 445.1545 of the Michigan Compiled Laws.

(e) Advertise a mobile home by making inaccurate, misleading, or false comparisons with competitors' services, prices, products, quality, or business methods.

(f) Use a picture or photograph of a mobile home in advertising if the picture or photograph does not represent a mobile home of the same year, make and model, and does not contain all the standard equipment of the model that is actually being offered for sale at the price quoted in the advertisement.

(g) Advertise a mobile home for sale in a manner which conveys or creates an erroneous impression as to which mobile home is being offered at the advertised price.

(h) Advertise the statements "write your own deal," "name your own price," or similar statements, unless these statements are true and a buyer can, in fact, negotiate his or her own price.

(i) Advertise the terms "at cost," "below cost," "below wholesale," "below invoice," or "above cost," "above wholesale," "above invoice," or similar terms in connection with a retail sale unless the terms are true.

(j) Advertise a specific trade-in amount or range of amounts for a used mobile home without offering the advertised trade-in amount or range of amounts regardless of the condition of the used mobile home when presented to the dealer for trade-in by a prospective customer unless the statement "subject to condition appraisal" is contained in the advertisement.

(k) Advertise that "no dealer has lower prices," "the dealer is never undersold," or terms of similar meaning unless the statements are true.

(l) Advertise in a manner which is false or misleading as to what a new mobile home guarantee, warranty, or protection includes.

(m) Advertise the terms "manufacturer's warranty" unless referring to a new mobile home covered by a bona fide written manufacturer's warranty.

(n) Advertise equipment, accessories, or other merchandise as "free" if the cost, or any part of the cost, is included in the quoted price of the mobile home.

(o) Advertise the terms "no credit rejected," "we finance everyone," or similar terms unless the terms are true.

(p) Advertise the offering of a rebate or referral bonus unless they are true.

(q) Advertise a mobile home as new unless it has never been occupied. A mobile home which is not of a current model or calendar year, but which has never been occupied, may be advertised as new if the model or calendar year is stated in the advertisement.

(r) Advertise, or infer by advertising, that a mobile home is "repossessed" unless it is true.

(s) Advertise in any manner which infers that a purchaser will be receiving benefits of an existing loan on a mobile home if such benefits do not exist.

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(t) Advertise used mobile homes as carrying an unused portion of the original manufacturer's warranty unless this is true.

History: 1954 ACS 96, p. 13, Eff. July 12, 1978.

R 125.1217 Accounts and records.

Rule 217. (1) In addition to accounts and records required by local ordinances, other laws, or as prescribed elsewhere in these rules, a mobile home dealer shall retain a record of all mobile homes bought, sold, or exchanged. The record shall be kept in a hard cover, bound volume with entries recorded in ink. The dealer shall complete the following entries for each mobile home bought, sold, and exchanged by the dealership:

(a) The date each mobile home is taken into inventory.

(b) The name and address of the person from whom the mobile home was obtained.

(c) The purchase or stock number of the mobile home.

(d) The identification number of the mobile home.

(e) The manufacturer's trade name.

(f) The model year and model name of the mobile home.

(g) The dates bought, sold, and exchanged.

(h) The name and address of the purchaser.

(2) At the time of sale, each mobile home dealer shall, on a form prescribed by the commission, prepare, execute, and file with the department or its authorized representative, an application for a certificate of mobile home title which shall include the appropriate fee and any lien held against the mobile home.

(3) All sales of a mobile home shall be executed pursuant to a purchase agreement.

(4) A mobile home dealer shall retain all of the following:

(a) A copy of the manufacturer's invoice for each new mobile home.

(b) A copy of each purchase agreement, as defined in these rules, with any attachments for each mobile home bought, sold, and exchanged.

(c) The dealer's copy of the application for certificate of mobile home title.

(d) Service records for each mobile home sold. If the mobile home is used, all records that the dealer may have knowledge of shall be retained.

(e) A list of all options purchased with a specific mobile home, unless otherwise contained in the purchase agreement.

(5) A mobile home dealer who maintains an escrow account shall maintain a separate record system for consumer deposits at his principal place of business. The record system, with all entries recorded in ink, shall consist of, but not be limited to, all of the following:

(a) A bound record book which shows the chronological sequence in which consumer deposits are received and disbursed.

(b) For consumer deposits received, the record shall include the date of receipt, the name of the party who is giving the consumer deposit, the name of the person receiving the consumer deposit, and the amount.

(c) If the consumer deposit is in the form of collateral or security other than cash or a cash negotiable instrument, the record shall specifically identify the collateral or security, and the cash value shall be the same as contained in the purchase agreement.

(d) For disbursements, the record shall include the date, the payee, the check number, and the amount.

(e) A running balance shall be shown after each entry of receipt and disbursement.

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(6) All accounts and records required by these rules for retention shall be available for inspection by an authorized representative of the bureau during normal business hours.

(7) A mobile home dealer maintaining a bond, cash, or security deposits in lieu of an escrow account shall maintain a record system consisting of, but is not limited to, the following:

(a) For consumer deposits received, the record shall include the date of receipt, name of the party who is giving the consumer deposit, name of the person receiving the consumer deposit, and amount.

(b) If the consumer deposit is collateral or security other than cash or a cash instrument, the record shall specifically identify the collateral or security and the cash value shall be the same as contained in the purchase agreement.

(c) For disbursements, the record shall include the date, payee, check number and amount.

History: 1954 ACS 98, p. 14, Eff. July 12, 1978; 1954 ACS 100, p. 48, Eff. Sept. 5, 1979.

R 125.1218 Consumer deposits.

Rule 218. (1) A mobile home dealer shall give to a consumer, before receiving a consumer deposit, an itemized statement of all costs to the consumer for a mobile home or accessory.

(2) A mobile home dealer shall record on each request for financing sent to a lending institution the exact amount of the down payment.

(3) A mobile home dealer shall refund to the consumer the total amount of consumer deposit on the purchase of a mobile home not more than 15 banking days after a request for financing has been rejected by the lending institution, or if the consumer cancels the purchase agreement before the binding date as provided in these rules, or if the manufacturer agrees to cancel the order for a new mobile home without penalty to the dealer.

(4) A mobile home dealer has no obligation to refund the consumer deposit if the purchaser cancels the purchase agreement of a new or used mobile home after the binding date.

(5) The consumer shall notify the mobile home dealer in writing of his intent to cancel the purchase agreement. The notification shall be delivered to the mobile home dealer before the close of the business day on the binding date to be eligible for return of a consumer deposit.

(6) An employee who accepts consumer deposits and purchase agreements in the name of a mobile home dealership shall be deemed authorized by the mobile home dealer to accept the deposit.

(7) A mobile home dealer shall place all consumer cash deposits or similar negotiable instruments of the consumer's deposit in an escrow account by the end of the second banking day following receipt. Escrow accounts shall be maintained as checking accounts. The mobile home dealer or person authorized in writing by the mobile home dealer may be a signatory on checks drawn on the accounts.

(8) A mobile home dealer may maintain more than 1 escrow account. He may maintain his own funds in an amount not to exceed $100.00 in each deposit escrow account to cover bank service charges and to avoid the account being closed or overdrawn if there are no other funds in the account. These funds shall be accounted for in a bookkeeping system as prescribed in these rules.

(9) In place of an escrow account, a mobile home dealer may maintain a consumer deposit bond of not less than $10,000.00, a consumer deposit bond or cash deposits or security in an amount equal to the highest monthly receipts of consumer cash deposits and cash value of other security recorded over the

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previous 3 years. If the highest monthly receipts formula is used to determine the amount of the bond or deposit, the amount of the bond or deposit shall be adjusted to reflect the previous 3 years' experience before a license is renewed. If at any time the consumer deposits received exceed the amount of the bond or deposit established under the formula, the dealer shall immediately increase the amount of the bond or deposit or escrow the excess amount. All bonds shall be made out to the People of the State of Michigan on a form prescribed by the commission and shall accompany an application for a dealer's license. All cash deposits or security shall be deposited with the state of Michigan upon application for a dealer's license.

(10) Effective 6 months after filing of this subrule, the front of each purchase agreement shall contain the following statement in boldface type:

> Five business days after the purchaser receives a legible copy of the executed purchase agreement, or if at any time within the 5 days an application for a certificate of mobile home title is executed, the sale is final and the dealer is not obligated to refund the consumer deposit if the purchaser subsequently cancels the agreement. If the purchaser elects to cancel the purchase agreement within the 5 business day limit and has not executed an application for a certificate of mobile home title, the purchaser shall notify the dealer in writing by certified mail or personal delivery and dealer receipt given to be eligible for full refund of the consumer deposit.

History: 1954 ACS 96, p. 15, Eff. July 12, 1978; 1954 ACS 100, p. 49, Eff. Sept. 5, 1979.

R 125.1218a Mobile home dealers; escrow account; bonds; cash or other securities.

Rule 218a. (1) As a condition of licensing, a mobile home dealer shall establish an escrow account, post a consumer deposit bond, or deposit cash or other securities in compliance with section 24(c) of the act for the protection of consumer deposits received by the dealership.

(2) If a dealer establishes an escrow account, it shall be maintained in compliance with R 125.1218(7) and (8).

(3) If a dealer posts a bond or deposits cash or other securities they shall be maintained in compliance with R 125.1218(9), except that a dealer filing an initial application shall maintain the bond, cash, or other securities at a minimum of $10,000.00 until sufficient data is available to comply with R 125.1218(9).

(4) A copy of the consumer deposit bond shall be filed with the bureau as an enclosure to the dealer license application. If the application is for a renewal license only, and if a copy of the bond is on file and the bond is continuous, this subrule shall not apply.

(5) If the dealer establishes an escrow account or deposits cash or other securities, the dealer shall file with the bureau, on a form prescribed by the commission, an affidavit attesting to the fact that such accounts have been established. The affidavit shall be filed as an enclosure to the dealer license application.

History: 1954 ACS 100, p. 50, Eff. Sept. 5, 1979.

R 125.1219 Prohibited business practices.

Rule 219. (1) In addition to other laws and rules promulgated for the purpose of regulating business practices, a mobile home dealer shall not engage in any of the following practices:

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(a) Alter or substitute a mobile home purchased from inventory for which a purchase agreement has been executed by all parties to the transaction, without the express written consent of the purchaser. The purchaser's consent shall become an attachment to the purchase agreement.

(b) Alter, substitute, or remove a part, option, accessory, or item of standard equipment of a mobile home purchased from inventory for which a purchase agreement has been executed by all parties to the transaction, without the express written consent of the purchaser. The purchaser's consent shall become an attachment to the purchase agreement.

(c) Alter, or substitute a part or entry of a purchase or financing agreement after the agreement has been executed by all parties to the transaction, without the express written consent of the purchaser. The purchaser's consent shall become an attachment to the purchase or financing agreement.

(d) Perform repairs on a mobile home, including an option, accessory, or item of standard equipment of a mobile home which results in the alteration or substitution to the manufacturer's construction and performance standards in effect at the time of manufacturing.

(2) A mobile home dealer shall comply with the provision of Act No. 331 of the Public Acts of 1976, being §§445.901 to 445.922 of the Michigan Compiled Laws.

History: 1954 ACS 96, p. 15, Eff. July 12, 1978.

R 125.1220 Disclosure of business relationships with lending institutions and insurance companies.

Rule 220. (1) A mobile home dealer shall disclose, at the time of filing with the bureau on the prescribed application, all direct or indirect business relationships which the dealer has with financial and loan institutions, banks, all other lending institutions, and insurance companies. Agreements reached subsequent to filing shall be submitted to the department, on a form prescribed by the commission, within 15 working days.

(2) All retail installment sales agreements utilized by a mobile home dealer shall conform to the federal consumer credit protection act, Public Law 90-321; and to the retail installment sales act, Act No. 224 of the Public Acts of 1966, as amended. Any retail installment sales agreement shall fully disclose the terms and conditions of finance charges in credit transactions or in offers to extend credit.

(3) A mobile home dealer shall not require dealer-obtained financing of a mobile home as a condition of sale.

History: 1954 ACS 96, p. 16, Eff. July 12, 1978.

R 125.1221 Making insurance condition to sale.

Rule 221. A mobile home dealer shall not make insurance a condition to the sale of a mobile home.

History: 1954 ACS 96, p. 16, Eff. July 12, 1978.

R 125.1222 Dealer termination.

Rule 222. (1) Immediately upon determination to terminate a mobile home dealership, a mobile home dealer shall do all of the following:

(a) By certified mail, notify the bureau and each bonding agency, each financial and loaning institution, each manufacturer of a new mobile home for which the dealer is an authorized agent, and each insurance company that the dealer is doing business with of his proposed termination.

(b) On a form prescribed by the commission, notify by certified mail each purchaser of a new or used mobile home who, within 1 year of the proposed

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termination date, purchased a mobile home from the dealer that the dealership shall be terminated. The notification shall clearly state the responsibilities for future service and repair under guarantees and warranties, financial claims, and all other dealer claims and obligations previously issued under the purchase agreement.

(c) By certified mail, send each manufacturer of new mobile homes sold by the dealer 1 year before the proposed termination date a complete list of all mobile home purchasers. The list shall contain, but not be limited to, the name and most recent known address of the purchaser, the name, model, and serial number of the mobile home, the date the manufacturer's warranty was effective, and the remaining warranty.

(2) In addition to complying with the notifications required in subdivisions (a), (b), and (c) of this rule, a mobile home dealer shall, before the bureau terminates the dealership license, send the bureau, by certified mail, a statement that contains his proposal of the settlement of all service, warranty and guarantee, and financial obligations previously issued by the dealer under an agreement. The proposed settlement of service, guarantee, and warranty obligations shall clearly state a reasonable area or distance that the dealer intends to obligate himself to fulfill his commitments under previously issued agreements.

(3) A terminated mobile home dealer shall maintain a full $10,000.00 surety bond for the current license year.

(4) A terminated mobile home dealer shall retain all accounts and records prescribed by these rules for 3 years after the date of termination.

(5) Before a subsequent issue of a mobile home dealer's license, a previously terminated mobile home dealer shall attach a statement to his application attesting to the fact that all obligations and complaints incurred during his dealership have been resolved.

History: 1954 ACS 96, p. 16, Eff. July 12, 1978.

R 125.1223 Warranties and service.

Rule 223. (1) A new mobile home sold by a dealer situated in this state shall be covered by a written warranty from the manufacturer or dealer which complies with Act No. 288 of the Public Acts of 1974, being §§125.991 et seq. of the Michigan Compiled Laws, and known as the uniform mobile homes warranty act.

(a) A manufacturer shall warrant that the mobile home is free from substantial defects in materials or workmanship and was delivered to the dealer in such condition. A manufacturer shall also warrant that the Michigan laws and rules existing at the time of construction as to construction and fire protection and detection were complied with.

(b) A dealer shall warrant that the mobile home is free from substantial defects in materials or workmanship when sold to the buyer.

(c) A manufacturer and dealer shall warrant that they, or 1 of them, shall take appropriate corrective action at the site of the mobile home for breach of their respective warranty obligations, which defect becomes evident within 1 year from the date of the delivery of the mobile home to the purchaser, if the purchaser gives written notice of the defect to the manufacturer or dealer at their last known business address not later than 1 year and 11 days after date of delivery to the first retail buyer.

(2) A mobile home includes the structure, plumbing, electrical, heating, and fire detection systems installed therein, and also includes the appliances situated therein, unless covered by a warranty from the appliance manufacturer, equaling or exceeding the warranty provided in subrule (1)(a), (b), and (c).

History: 1954 ACS 96, p. 17, Eff. July 12, 1978.

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R 125.1224 Mobile home broker.

Rule 224. (1) In order to become a licensed mobile home broker, a person shall do both of the following:

(a) Complete an application on a form prescribed by the commission for each mobile home brokerage location.

(b) Establish a $10,000.00 surety bond for each mobile home brokerage location.

(2) In addition to maintaining accounts and records as prescribed by law, a mobile home broker shall maintain accounts and records pertaining to consumer deposits, listing agreements, offers to purchase, applications for a certificate of mobile home title, closing statements, and a copy of each written complaint received pursuant to these rules.

(3) A mobile home broker who obtains a mobile home listing shall give a true copy of the listing agreement to the listing owner. A listing agreement shall be completed by the mobile home broker before it is signed by the listing owner.

(4) A listing agreement shall set forth an expiration date and shall not contain a provision requiring the listing owner to notify the mobile home broker of the listing owner's intention to cancel the listing upon or after the expiration date.

(5) A mobile home broker shall deliver to an offeror a signed copy of the offer to purchase immediately after it is signed by the offeror. A mobile home broker, upon receipt of the written offer to purchase, shall promptly deliver the written offer to purchase to the seller. Upon obtaining a proper acceptance of the offer to purchase, signed by the seller, the mobile home broker shall promptly deliver true copies of the acceptance to the purchaser and the seller. A mobile home broker shall certify in writing that all conditions of the mobile home transaction are included in the offer to purchase.

(6) A mobile home broker involved in the consummation of a mobile home transaction shall furnish the buyer and seller with a complete and detailed closing statement, signed by the mobile home broker, showing all receipts and disbursements of the transaction. A mobile home broker shall submit on the prescribed form an application for a certificate of mobile home title and collect, record, and remit the appropriate fee and sales tax within 15 days after the closing of the mobile home transaction.

(7) A mobile home broker shall not close a mobile home transaction contrary to the terms or conditions of the offer to purchase unless the written amendments are approved and signed by the purchaser and the seller.

(8) A mobile home dealer may broker used mobile homes upon approval of a "type 1" license.

(9) A mobile home park owner may broker used mobile homes only upon approval of a "type 1" or "type 2" license.

(10) A person seeking an exclusion to the definition and rules of a mobile home broker shall show proof of the exclusion.

(11) In addition to accounts and records prescribed by these rules, a mobile home broker shall retain copies of all listing agreements, offers to purchase, applications for a certificate of mobile home title, closing statements, leasing agreements, and a copy of each written complaint received for 3 years.

(12) A mobile home dealer acting as a broker and a mobile home broker shall place consumer deposits or similar negotiable instruments in a separate escrow account by the end of the second banking day following receipt. Escrow accounts shall be maintained as checking accounts. The mobile home broker or persons authorized by him may be a signatory on checks drawn on the accounts.

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(13) Pursuant to these rules, a mobile home broker shall comply with the following rules: R 125.1216, R 125.1218, R 125.1219, R 125.1220, and R 125.1222.

History: 1954 ACS 98, p. 17, Eff. July 12, 1978; 1954 ACS 100, p. 51, Eff. Sept. 5, 1979.

R 125.1225 Mobile home dealer and broker; place of business.

Rule 225. A mobile home dealer and a mobile home broker shall maintain a place of business which is an actual, physically established location from which business can be conducted and where accounts and records shall be available for inspection during normal business hours by a representative of the bureau. A post office box, secretarial service, telephone answering service, or similar entity does not constitute an actual, physically established location.

History: 1954 ACS 98, p. 9, Eff. Feb. 28, 1979.

R 125.1226 Dealer or broker; prohibited acts.

Rule 226. A mobile home dealer or broker shall not aid or abet an unlicensed person to evade the provisions of the act or these rules, or knowingly combine or conspire with, or act as an agent, partner, or associate for, an unlicensed person, or allow one's license to be used by an unlicensed person, or act as or be an apparent licensed mobile home dealer or broker for undisclosed persons who do or will control or direct, or who may have the right to control or direct, directly or indirectly, the business operations or performance, or both, of the licensee.

History: 1954 ACS 98, p. 9, Eff. Feb. 28, 1979.

R 125.1227 "Otherwise transfers" explained.

Rule 227. "Otherwise transfers," as used in section 30c(4) of the act, includes in the event of death of an owner of 1 or more mobile homes whose total value does not exceed $10,000.00, who does not leave other property necessitating procuring of letters administration or letters testamentary as required in section 114 of the revised probate code, the surviving husband or wife, heirs in the order named in section 115 of the revised probate code, may apply for a title, after first having furnished the department proper proof of the death of the registered owner, attaching to the proof an affidavit setting forth the fact that the applicant is the surviving husband or wife, or heirs, and upon proper petition the department shall furnish applicant with a certificate of title.

History: 1954 ACS 100, p. 51, Eff. Sept. 5, 1979.

R 125.1228 Brokers; disclosures in listing agreements and closing statements.

Rule 228. A mobile home broker shall do all of the following:

(a) Disclose in the listing agreement that the park in which the mobile home is located has agreed in writing to permit the in-park, on-site sale of the mobile home offered, and that the mobile home meets the criteria for such sales pursuant to the written park rules.

(b) Disclose in the closing statement before closing that the mobile home offered is located on-site in a mobile home park, that the in-park, on-site sale is agreed to in writing by the park, that the prospective purchaser has been accepted, in writing, by the park for tenancy, and that the purchaser shall not be required to relocate within or outside the park if the purchaser complies with the conditions of tenancy as contained in the lease agreement and the published park rules.

(c) Disclose in the listing agreement the percent of commission to be received by the broker upon closing.

History: 1954 ACS 100, p. 51, Eff. Sept. 5, 1979.

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PART 3. FEES

R 125.1301 Rescinded.

History: 1954 ACS 96, p. 18, Eff. July 12, 1978; rescinded 1954 ACS 100, p. 52, Eff. Sept. 5, 1979.

R 125.1305 Mobile home park license; renewal.

Rule 305. (1) Each applicant for a mobile home park license or for a license renewal shall make application for the license or the license renewal on a form prescribed by the department. The fee for the annual license is $25.00 plus an additional 50 cents for each site in excess of 25 sites per mobile home park.

(2) The fee shall be submitted with the application to the department.

History: 1954 ACS 96, p. 18, Eff. July 12, 1978.

R 125.1310 Late fee.

Rule 310. A late fee of $50.00 shall be charged for any license issued under the act if timely application is not made by the applicant pursuant to the submission date contained in these rules or the act.

History: 1954 ACS 98, p. 9, Eff. Feb. 28, 1979.

R 125.1315 Mobile home park construction and conversion fees.

Rule 315. (1) If filed separately, the following fees shall accompany the documents submitted pursuant to R 125.1905 and R 125.1915 for new mobile home park construction, or expansion to an existing, licensed park:

(a) Construction plans approval $160.00
(b) Application for a permit to construct 25.00

(2) If a request for construction plans approval and an application for a permit to construct are filed simultaneously, the accompanying fee shall be $185.00.

(3) A fee of $505.00 shall accompany the documents submitted for the construction of a new mobile home condominium.

(4) For existing mobile home parks converting to a mobile home condominium with no expansion to the number of mobile home sites within the park, the accompanying fee shall be $480.00.

(5) For existing mobile home parks converting to a mobile home condominium with expansion to the number of mobile home sites within the park, the accompanying fee shall be $505.00.

History: 1954 ACS 98, p. 10, Eff. Feb. 28, 1979.

R 125.1320 Fees for public documents.

Rule 320. (1) Upon written request, the bureau shall provide to the requestor copies of any document retained by the bureau that is determined a matter of public record.

(2) A minimum fee of $5.00 shall be charged for any request. For requests that exceed the minimum fee, the following schedule of fees apply:

(a) Standard document ..... $ .25 per page
(b) Certified document ..... 5.00 per page
(c) Microfiche ..... .50 per fiche
(d) Magnetic tape ..... 21.70 per reel
(e) Cassette tape ..... 20.00 per cassette
(f) Hearing transcript ..... .50 per page
(g) Computer print-out ..... Actual cost
(h) Postage ..... Actual cost
(i) Labor ..... 4.09 per hour

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(3) All fees shall be paid by the requestor before mailing of the documents by the bureau. All fees shall be paid by cash, check, or money order, payable to the State of Michigan.

History: 1954 ACS 98, p. 10, Eff. Feb. 28, 1979.

PART 4. INSTALLER AND REPAIRER LICENSING

R 125.1401 Installer or repairer; licensing required.

Rule 401. A person who installs or repairs mobile homes for compensation shall be licensed as a mobile home installer and repairer.

History: 1954 ACS 98, p. 18, Eff. July 28, 1978.

R 125.1402 Application; form; filing; duplicate license.

Rule 402. As of October 1, 1978, a completed original application on a form prescribed by the commission shall be filed not less than 30 days before the date on which the applicant intends to engage in the installation and repair of mobile homes. A duplicate license shall be issued on submission of a verified statement of loss of the original license.

History: 1954 ACS 98, p. 19, Eff. July 28, 1978.

R 125.1403 Application; answering questions truthfully.

Rule 403. An applicant shall answer all questions truthfully and shall not misrepresent any material fact on the application.

History: 1954 ACS 98, p. 19, Eff. July 28, 1978.

R 125.1404 Application; filing as successor.

Rule 404. If an applicant files an application for a license as a successor, whether or not the successor is then in existence, the application shall meet all requirements of an original application.

History: 1954 ACS 98, p. 19, Eff. July 28, 1978.

R 125.1405 Application; changes, additions, or corrections.

Rule 405. Changes, additions, or corrections to the original application, including, but not limited to, changes in business address, officers, and directors, shall be filed with the department within 10 days after the changes are made.

History: 1954 ACS 98, p. 19, Eff. July 28, 1978.

R 125.1406 Financial statement.

Rule 406. An applicant shall prepare and submit to the department a notarized financial statement of the corporation, or each partner of a partnership, or individual on a form prescribed by the commission.

History: 1954 ACS 98, p. 19, Eff. July 28, 1978.

R 125.1407 License; issuance generally.

Rule 407. An installer and repairer license may be issued to an individual, partnership, association, trust, or corporation, or any other legal entity, or combination thereof, which meets the requirements of the act and these rules.

History: 1954 ACS 98, p. 19, Eff. July 28, 1978.

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R 125.1408 License; issuance to person under age 18 prohibited.

Rule 408. An installer and repairer license shall not be issued to a person under the age of 18.

History: 1954 ACS 96, p. 19, Eff. July 26, 1978.

R 125.1409 License; issuance to limited partnership.

Rule 409. An installer and repairer license shall not be issued to a limited partnership when the person who applies for such limited partnership is not a general partner.

History: 1954 ACS 96, p. 19, Eff. July 26, 1978.

R 125.1410 License; request for renewal.

Rule 410. A request for renewal of an installer and repairer license shall be on a form provided by the commission and shall be accompanied by a notarized financial statement and the fee specified in section 21(4) of the act.

History: 1954 ACS 96, p. 19, Eff. July 26, 1978.

R 125.1411 Temporary original license.

Rule 411. The commission may authorize or issue temporary original licenses as evidence of proper licensing, containing such information as the commission prescribes.

History: 1954 ACS 96, p. 19, Eff. July 26, 1978.

R 125.1412 Employment of person with suspended license prohibited.

Rule 412. A dealer or an installer and repairer shall not employ, during the time of suspension, an installer or repairer who has had his license suspended under this act.

History: 1954 ACS 96, p. 19, Eff. July 26, 1978.

R 125.1413 Licensed dealer; installation and repair of mobile homes; employee not required to obtain license; nonapplicability of rules.

Rule 413. (1) Pursuant to the act, a licensed mobile home dealer may install and repair mobile homes as an integral part of his business.

(2) A person who is employed by a licensed mobile home dealer as an installer and repairer is not required to obtain a license. If an employee of a licensed mobile home dealer engages in the installation and repair of mobile homes on his own behalf other than in the scope of employment, the person shall obtain a mobile home installer and repairer license. Any employee of a dealer or installer and repairer who engages in installing and repairing mobile homes other than as a result of his employment, shall notify the consumer, in writing, that he is working on his own behalf.

(3) These rules do not apply to the following:

(a) A person who is licensed and is in good standing under the provisions of Act No. 217 of the Public Acts of 1956, as amended, being §§338.881 to 338.892 of the Michigan Compiled Laws, so far as he is engaging in conduct regulated by that act, being the electrical installation, electrical maintenance, or electrical repair work performed on a mobile home.

(b) A person who is licensed and is in good standing under the provisions of Act No. 266 of the Public Acts of 1929, being §§338.901 to 338.965 of the Michigan Compiled Laws, so far as he is engaging in conduct regulated by that act, being the plumbing installation, plumbing maintenance, or plumbing repair work performed on a mobile home.

History: 1954 ACS 96, p. 19, Eff. July 26, 1978.

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PART 5. INSTALLER AND REPAIRER BUSINESS PRACTICES

R 125.1501 Definitions.

Rule 501. As used in this part:

(a) "Add-a-room," for the purpose of these rules, means a room specifically designed, manufactured, and completely assembled at the factory for attachment to a mobile home, and is transportable on its own chassis. An add-a-room requires a certificate of mobile home title.

(b) "Work order" means an express written agreement in which a person agrees to install or repair the mobile home and shall include the permanent I.D. license number assigned by the department.

History: 1954 ACS 96, p. 20, Eff. July 26, 1978; 1954 ACS 100, p. 52, Eff. Sept. 5, 1979.

R 125.1502 Advertising.

Rule 502. (1) Advertising by a mobile home installer and repairer shall not misrepresent facts.

(2) A mobile home installer or repairer shall not advertise the term "authorized factory service" or "authorized manufacturer's service representative" or similar terms when he does not have the express written manufacturer's authorization.

History: 1954 ACS 96, p. 20, Eff. July 26, 1978.

R 125.1503 Place of business.

Rule 503. A mobile home installer and repairer shall maintain a place of business which is an actual, physically established location from which he can and does conduct business and where accounts and records shall be available for inspection during normal business hours by a representative of the bureau. A post office box, secretarial service, telephone answering service, or similar entity does not constitute an actual, physically established location.

History: 1954 ACS 96, p. 20, Eff. July 26, 1978.

R 125.1504 Work orders; estimates; warranties; abandonment.

Rule 504. (1) All installation and repair of a mobile home shall be executed pursuant to a work order. The conditions set forth in a work order may vary according to type of work required and desired specification, but as a minimum shall include the specific work to be performed and itemized cost based on information available at the time the work order is executed. The work order may be used for separate cost estimates or as a receipt for customer deposits. All conditions of the installation or repair shall be included in the work order.

(2) All estimates for installation and repair of a mobile home shall be executed pursuant to a work order.

(3) Changes in a work order shall not be made by an installer and repairer without the express consent of the customer. Verbal consent shall be noted on the work order.

(4) If a warranty is offered by the installer or repairer, the warranty shall be in express written form with an executed copy given to the customer and a copy attached to the work order.

(5) If, for any reason, an installer and repairer intends to abandon a work order, he shall notify, in writing and by certified mail, each consumer for which he has outstanding obligations pursuant to the conditions of the work order stating the exact reason for abandonment. Abandonment of a work order by an installer and repairer includes, but is not limited to, the following acts or omissions:

(a) Failure to start and complete work according to the conditions of the work order, unless the express written consent of the consumer is given.

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(b) Failure to request and procure within 5 business days after the work order has been executed the necessary permits to perform the work agreed upon in the work order, unless the express written consent of the consumer is given.

(c) Failure to maintain the schedule of performance agreed upon in the work order without good cause, unless the express written consent of the consumer is given.

History: 1954 ACS 96, p. 20, Eff. July 26, 1978.

R 125.1505 Accounts and records.

Rule 505. In addition to accounts and records required by local ordinances, other laws, and these rules, a mobile home installer and repairer shall retain a copy of each work order with attachments and a copy of each written complaint received for 3 years.

History: 1954 ACS 96, p. 21, Eff. July 26, 1978; 1954 ACS 100, p. 52, Eff. Sept. 5, 1979.

R 125.1506 Add-a-room; purchase; installation and repair.

Rule 506. (1) A person who engages in the business of the retail sale of an add-a-room shall be licensed in the same manner as a mobile home dealer.

(2) Purchase of an add-a-room shall be executed pursuant to the rules for the purchase of a mobile home.

(3) Installation and repair of an add-a-room shall be executed pursuant to a work order.

History: 1954 ACS 96, p. 21, Eff. July 26, 1978.

R 125.1507 Voluntary termination; retention of accounts and records; application for new license.

Rule 507. (1) An installer and repairer may voluntarily terminate upon performance of both of the following:

(a) Notifying, by certified mail, the bureau of his intent to terminate and the proposed date of termination.

(b) Notifying, by certified mail, each consumer to which he has outstanding obligations pursuant to the conditions of the work order, and warranty, if given.

(2) A terminated installer and repairer shall retain all accounts and records prescribed by these rules for 3 years after the date of termination.

(3) A previously licensed installer and repairer applying for a new license shall attach a statement to his application stating that all obligations and complaints incurred during his previous licensing have been resolved to the best of his knowledge.

History: 1954 ACS 96, p. 21, Eff. July 26, 1978.

R 125.1508 Unlawful practices; complaint.

Rule 508. (1) A mobile home installer and repairer shall not install or repair a mobile home, or a part, option, accessory, or item of standard equipment of a mobile home which, to the best of his knowledge, shall result in an alteration or substitution to the manufacturer's installation, construction, and performance standard in effect at the time of manufacture without the express written consent of the consumer. The consumer's consent shall be attached to the work order.

(2) If the consumer desires installation and repair that alters or substitutes the manufacturer's standard, the engaged installer and repairer shall notify the consumer on a form prescribed by the commission, and by certified mail or personal delivery, that to the best of his knowledge, the desired installation and

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repair alters or substitutes the manufacturer's standard which may void the manufacturer's warranty.

(3) A mobile home installer and repairer shall not do any of the following:

(a) Divert monies or other security received for the prosecution or completion of an installation or repair, or both, of a mobile home, a part, option, accessory, or item of equipment pursuant to the conditions of the work order.

(b) Fail to account for or remit monies in his possession which belongs to others.

(c) Wilfully depart from or disregard plans, specifications, or the conditions set forth in the work order without the written consent of the consumer.

(d) Wilfully violate or disregard the building laws, codes, and ordinances of the state or of a political subdivision thereof.

(e) Make a misrepresentation or a false promise which is likely to influence, persuade, or induce.

(f) If requested by a lender for the disbursement of funds, fail to furnish the consumer's signed completion certificate executed upon completion of the installation and repair performed pursuant to the conditions of the work order.

(g) Fail to deliver to the consumer the entire executed work order, including itemized cost of materials and other changes arising out of, or incidental to, the work order for the installation or repair, or both, of a mobile home.

(h) Aid or abet an unlicensed person to evade the provisions of the act or rules promulgated pursuant to the act, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as, or being an apparent licensed mobile home installer and repairer for, undisclosed persons who do or will control or direct, or who may have the right to control or direct, directly or indirectly, the business operations or performance, or both, of the licensee.

(4) A mobile home owner or occupant or his authorized representative may file a written complaint with the bureau pertaining to faulty installation or repair workmanship, which shall be considered by the bureau after evaluation of the complaint by the authority charged with enforcement of the laws governing mobile home installation and repair. The evaluation shall be considered by the bureau along with other evidence in making a determination as to the merits of the complaint. If the authority fails to make a written evaluation of the complaint within 30 days of the request, the bureau shall consider the complaint in the absence of the written evaluation. A complaint shall be filed by the mobile home owner or occupant or his authorized representative within 12 months after completion of the installation or repair, or both.

History: 1954 ACS 98, p. 21, Eff. July 28, 1978.

PART 6. MOBILE HOME INSTALLATION

R 125.1601 Definitions.

Rule 601. As used in this part:

(a) "Anchoring equipment" means straps, cables, turnbuckles, chains, including tension devices, or other securing devices which are used with ties to secure a mobile home to ground anchors.

(b) "Anchoring system" means a combination of ties, anchoring equipment, and ground anchors that will, when properly installed, resist movement of an implaced mobile home caused by wind forces.

(c) "Cap" means a solid concrete block, solid wood block, or solid steel plate which is placed on top of the pillar covering the width and length of the pillar.

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(d) "Foundation" means the base upon which a mobile home rests.

(e) "Ground anchor" means any device designed to transfer the mobile home anchoring loads to the ground.

(f) "Installation" means the process of mounting the mobile home on a foundation. It includes the initial acts of jacking up the mobile home, leveling, and connecting utilities, and the attachments of skirting, expandos, cabanas, carports, any device relating to barrier free design, and other fixtures to the mobile home pursuant to a signed work order.

(g) "Pillar" means the portion of the mobile home support system between the platform and the mobile home frame, exclusive of caps and shims.

(h) "Platform" means a 16-inch by 16-inch by 4-inch solid concrete block that is placed directly on the ground and serves as the foundation of a pillar. As an alternative, 2 8-inch by 16-inch by 4-inch solid concrete blocks may be used as platforms if the joint between the blocks is parallel to the steel I-beam frame.

(i) "Shim" means a wooden wedge with a 1-inch maximum thickness and not less than 4 inches wide and 6 inches long which, when driven in tightly in pairs between the cap and the mobile home frame, acts as a lending and stabilizing device.

(j) "Tie" means straps, cables, or a securing device used to connect a mobile home to ground anchors.

History: 1954 ACS 96, p. 22, Eff. July 28, 1978; 1954 ACS 98, p. 10, Eff. Feb. 28, 1979; 1954 ACS 100, p. 52, Eff. Sept. 5, 1979.

R 125.1602 Installation.

Rule 602. (1) For all new mobile homes sold in Michigan, the manufacturer shall provide express written instructions for the installation specifying the location and required minimum imposed load capacity of pillars and the location and the required minimum imposed load capacity of any other recommended stabilizing devices.

(2) The installation of mobile homes shall, at a minimum, comply with the following specifications:

(a) Pillars shall be installed directly under each main frame beam. If the distance between the main frame beams does not conform to the pad or pillars that are permanently installed on the mobile home site, cross beams shall be used. These cross beams may be of steel, or pressure-treated wood which resists decay, and has an imposed load capacity of 3,000 pounds per square foot (PSF). The cross beams shall extend a minimum of 6 inches beyond each main frame beam, but shall not extend beyond the sides of the mobile home. A wood beam shall not rest on the ground, but shall rest on the cap. If the cross beam interferes with a utility to the mobile home, the cross beam placement may be between blocks. If a cross beam is used between blocks, it shall be a minimum of 6 inches by 8 inches.

(b) Pillars shall be placed on 10-foot centers along the length of each main frame beam, but may be placed at less than 10-foot centers. If the pillars interfere with the axle area, they may be placed to a maximum of 13-foot centers, but the pillar placement shall not be less in number than if placed on 10-foot centers.

(c) The pillars nearest each end of the mobile home shall be within 3 feet of either end.

(d) All grass and organic material shall be removed and the pillar or platform shall be placed on stable soil.

(e) Pillars shall be constructed of solid concrete, cored concrete blocks unless other cored concrete blocks are supplied by the consumer, or a heavy metal screw column which bears on both frame and foundation or other acceptable design and construction meeting mobile home industry standards.

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(f) Concrete block pillars shall be constructed of regular 8-inch by 8-inch by 16-inch blocks and placed on the pillar platform. The blocks shall be placed with the open cells vertical and the blocking of the pillar shall be single tiered. A cap shall be placed on top of the pillar. A wood plate 1 inch by 8 inches by 16 inches or 2 inches by 8 inches by 16 inches may be placed on top of the cap for leveling. Shims may be fitted and driven tight between the wood plate or cap and the main frame and shall not take up more than 1 inch of vertical height.

(g) Pillars shall be installed perpendicular to the main frame of the mobile home.

(3) Solid concrete pillars may be of cone or pyramid design with a minimum 16-inch base tapered to a minimum 9-inch top. Shimming shall be the same as for the concrete block pillar.

(4) All pillars shall have a minimum imposed load capacity of 3,000 pounds.

(5) If the manufacturer's recommended installation specifications exceed the minimum specifications stated in these rules, the manufacturer's specifications shall in all cases be complied with.

(6) Mobile homes may be installed on a basement or crawl space-type foundation, provided the foundation complies with local building codes and ordinances, and meets the manufacturer's specifications for pillar placement and imposed load capacity.

History: 1954 ACS 96, p. 22, Eff. July 26, 1978.

R 125.1603 Utility hook-ups.

Rule 603. All utility hook-ups to a mobile home shall comply with the following minimum standards:

(a) Water. Each mobile home shall be connected to the service outlet by semi-rigid tubing, such as copper tubing or approved plastic piping. The minimum size shall be ½-inch inside diameter, or ⅝-inch outside diameter. An easily accessible hand manipulated shut off valve shall be installed on the water supply inlet to the mobile home. A water supply protection device such as a heat tape, UL or similarly listed, shall be installed at the time the mobile home is installed on site to prevent the freezing of service lines, valves, and riser pipes. The starting point of the protection device, excluding the plug-in cord, shall be attached 1 inch beyond the underside and extend beyond the point of entry of the water supply inlet of the mobile home. The wrapping or spiralling of the protection device shall comply with the manufacturer's specification. If an extension cord is used, it shall be UL or similarly listed, and approved for exterior use.

(b) Mobile home fuel supply systems shall be as follows:

(i) Furnaces, hot water heaters, appliances, or any item of equipment in a mobile home using gas shall be fully compatible to the type of gas used. An easily accessible approved hand shut off valve controlling the flow of gas to the entire gas piping system shall be installed as close as possible to the service meter or supply connection of the liquified petroleum gas container. Approved piping with a minimum ½-inch inside diameter, or ⅝-inch outside diameter shall be used for any gas line. After appliances are connected, the piping system shall be tested to not less than 10 inches nor more than 14 inches of water column (½ PSI) and the appliance connections tested for leakage with soapy water or a bubble solution.

(ii) A mobile home fuel supply system other than gas shall comply with state and local codes and ordinances, but as a minimum, shall comply with the standards contained in paragraph 4.3.1 to 4.3.4, NFPA number 501B, 1974, standard for mobile homes, body and frame design and construction require-

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ments; installation of plumbing, heating and electrical systems, which are adopted herein by reference. Copies of the standards are available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210 at a cost of $4.00, or from the Department of Commerce, Corporation and Securities Bureau, Mobile Home Section, P.O. Box 30222, Lansing, Michigan 48909 at a cost of $4.00.

(c) Sewer. As a minimum, schedule 30 plastic pipe with a minimum 3-inch diameter shall be used from the mobile home outlet to the site sewer service line. The sewer line shall be supported at not less than 4 feet intervals. Plumber's strapping shall be used for support wherever possible. All joints shall be sealed to preclude leaks. There shall be an approved seal at the sewer riser. All plumbing shall be installed pursuant to local codes.

(d) The electrical supply line from the service line to the mobile home shall be completed in a safe and workmanlike manner. Where the calculated load exceeds 50 amperes or where a permanent feeder is used the supply shall be connected by a person licensed under Act No. 217 of the Public Acts of 1956.

History: 1954 ACS 96, p. 23, Eff. July 26, 1978.

R 125.1604 Skirting.

Rule 604. (1) Mobile home skirting shall be vented. Louvered or similar vents shall be at a minimum of 600 square inches per 1,000 square feet of living space. A minimum of 1 vent shall be placed at the front and rear of the mobile home and 2 to each exposed side. An access panel of sufficient size to allow full access to utility hook-ups located beneath the mobile home shall be installed. All skirting shall be manufactured of fire-resistant material and certified as such by the manufacturer.

(2) Skirting shall be installed in a manner so as to resist damage under normal weather conditions to include, but not limited to, damage caused by freezing and frost, wind, snow, and rain.

History: 1954 ACS 96, p. 24, Eff. July 26, 1978.

R 125.1605 Anchoring systems generally.

Rule 605. (1) Effective 6 months after filing of these rules with the secretary of state, a mobile home anchoring system sold and installed in this state shall comply with the following:

(a) Be designed and constructed in compliance with the United States department of housing and urban development regulations entitled "Mobile Home Construction and Safety Standards," which are adopted herein by reference. Copies of the standards may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 upon request for 24 C.F.R., Parts 0-499, (mobile home construction and safety standards) at a cost of $5.00, or from the Department of Commerce, Corporations and Securities Bureau, Mobile Home Section, P.O. Box 30222, Lansing, Michigan 48909 at a cost of $5.00.

(b) Be installed in compliance with the manufacturer's specifications.

(c) Be approved for sale and use within this state by the Michigan construction code commission.

(2) An anchoring system that is sold in this state shall be certified in writing by the manufacturer as meeting the standards required by these rules.

(3) A manufacturer shall furnish and ship with each approved anchor system information pertaining to the type or types of soil the system has been tested and

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certified to be installed in, and instructions as to the method of installation and periodic maintenance required.

(4) Model number shall be permanently marked on each anchor system.

History: 1954 ACS 98, p. 11, Eff. Feb. 28, 1979.

R 125.1606 Anchoring systems; request for approval; exhibits.

Rule 606. (1) To obtain approval to sell a mobile home anchoring system in this state, each system's manufacturer shall, in letter form, submit a request for approval to the Michigan construction code commission.

(2) The following exhibits shall be attached to the request for approval letter.

(a) Detailed drawings of each type of anchor system, containing, but not limited to, brand name, name and address of manufacturer, model identification, all dimensions, type and location of welds or fastenings, type of materials, tie method, and ground anchor method. Each drawing shall bear the seal of an engineer who is registered in the state of the anchor system's manufacturer, or the state of Michigan.

(b) Certified test results that were conducted by an accredited independent testing laboratory or engineering firm which shall include, but is not limited to:

(i) Model tested as described in the engineering drawings.

(ii) Method of installation.

(iii) Date of installation.

(iv) Date of test or tests.

(v) Type of test or tests.

(vi) Date and type of field test.

(vii) Soil profile description or descriptions in which tests were conducted.

(viii) Test equipment used.

(ix) Ground anchor used.

(x) Pounds of force exerted and resultant uplift of the anchor system.

(xi) Failure point of the anchor system.

(xii) A copy of the installation and periodic maintenance instructions that shall be provided with each model.

History: 1954 ACS 98, p. 11, Eff. Feb. 28, 1979.

R 125.1607 Anchoring systems; changes in design, construction, and materials.

Rule 607. Changes in design, construction, and materials used in an approved model shall not be made. If changes are made to an approved system by the manufacturer, the revised model shall be resubmitted to the Michigan construction code commission for approval pursuant to R 125.1606.

History: 1954 ACS 98, p. 11, Eff. Feb. 28, 1979.

R 125.1608 Anchoring system; approval or disapproval for sale and installation; notice.

Rule 608. Within 90 days after receipt of the anchoring systems manufacturer's request for approval, the Michigan construction code commission may approve or disapprove the system for sale and installation in the state. The manufacturer shall be notified by certified mail of the action taken.

History: 1954 ACS 98, p. 11, Eff. Feb. 28, 1979.

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PART 7. MOBILE HOME PARK SAFETY RULES

R 125.1701 Signs.

Rule 701. (1) Speed limits on internal mobile home park roads shall be posted not to exceed 15 miles per hour.

(2) Intersection of roads shall be clearly marked with appropriate traffic signs.

(3) Roads shall be named and so identified by street signs located at all road intersections.

(4) Signs depicting "Children Playing" shall be appropriately located on all streets adjacent to recreational and playground areas.

History: 1954 ACS 96, p. 24, Eff. July 28, 1978.

R 125.1702 Swimming pools.

Rule 702. With respect to swimming pools, Act No. 230 of the Public Acts of 1966, being §§325.601 to 325.620 of the Michigan Compiled Laws, and R 325.2111 to R 325.2198 of the Michigan Administrative Code, shall be complied with.

History: 1954 ACS 96, p. 24, Eff. July 28, 1978.

R 125.1702a Fire safety.

Rule 702a. (1) The mobile home park management shall notify each tenant upon occupancy, in writing, that the site shall be kept free of fire hazards. This information may be made a part of the park rules.

(2) The mobile home park management shall notify each tenant, in writing, that if fire hydrants are available within the mobile home park, vehicular parking is prohibited within 10 feet of the hydrant. This information may be made a part of the park rules.

(3) Each mobile home site shall be numbered and clearly marked for positive identification. Each number shall be easily readable from the street servicing the site.

(4) Liquefied petroleum gas containers shall not be stored on the mobile home site when not connected to the mobile home. Any containers not connected to the mobile home shall be stored in an area designated by the park management and approved by the servicing fire department.

(5) Individual mobile home liquefied petroleum gas containers and fuel oil tanks shall be installed, mounted, and secured in compliance with the national fire protection association's 1974 standard for mobile homes 501B, part D, chapter 4, paragraphs 4.2.3 and 4.3, adopted herein by reference. NFPA 501B is available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210 or the Department of Commerce, Corporations and Securities Bureau, Mobile Home Section, P.O. Box 30222, Lansing, Michigan 48909, at a cost of $4.00.

(6) Combustible materials shall not be stored under a mobile home.

History: 1954 ACS 100, p. 52, Eff. Sept. 5, 1979.

R 125.1703 Fire extinguishers and smoke detectors.

Rule 703. (1) Before a mobile home can be accepted for placement in a mobile home park, it shall be equipped with at least 1 extinguisher with a minimum 2A-10-B-C rating and approved by a nationally recognized independent testing laboratory. It shall also be equipped with at least 1 smoke detector approved by a nationally recognized independent testing laboratory. The mobile home park management shall notify in writing each tenant that Act No. 133 of the

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Public Acts of 1974, being §125.771 et seq. of the Michigan Compiled Laws, requires that all mobile homes manufactured, sold, or brought into this state shall be equipped with at least 1 fire extinguisher and 1 smoke detector. This information shall be included in the park rules.

(2) Fire extinguishers bearing a nationally recognized independent testing laboratory and of a type approved for such service by the director of state police shall be placed in the caretaker's office and all service or recreational buildings within the park. Each fire extinguisher shall be examined periodically and shall be kept at all times in a usable condition.

History: 1954 ACS 96, p. 24, Eff. July 26, 1978.

R 125.1704 Emergency telephone numbers.

Rule 704. Immediately upon occupancy, each tenant of the mobile home park shall be provided by the park management a list containing, but not limited to, the following information:

(a) The telephone number of the servicing fire department.

(b) The telephone number of the servicing law enforcement agency.

(c) The telephone number of the mobile home park office, including the normal business hours and emergency telephone number where the park manager or person can be reached after normal business hours. When an answering service is used, a person shall be available to respond to emergencies.

History: 1954 ACS 96, p. 24, Eff. July 26, 1978; 1954 ACS 100, p. 53, Eff. Sept. 5, 1979.

R 125.1705 Playgrounds and equipment; recreational and athletic areas; inspections.

Rule 705. (1) Each playground, recreational, and athletic area shall be kept free of safety hazards.

(2) Playground equipment shall be inspected for defects by the mobile home park management or authorized representative once each calendar month when in use. All defective equipment shall be removed from the site, rendered unusable, or the defects corrected immediately.

(3) A written record of the inspection shall be maintained at the mobile home park office. The record shall contain, but is not limited to, the date of inspection for each item of equipment, defects noted, if any, date corrected, and the name of the person performing the inspection. These records shall be maintained in accordance with the rules pertaining to mobile home park accounts and records.

History: 1954 ACS 96, p. 25, Eff. July 26, 1978.

R 125.1706 Severe weather warning; shelters.

Rule 706. Immediately upon occupancy, each mobile home park tenant shall be provided by the park management written information pertaining to the severe weather warning system used by local government, if provided, which shall contain, but is not limited to, the following:

(a) Signals used to alert the mobile home park population to impending severe weather.

(b) In areas where local government has designated shelters, a mobile home park management shall, in writing, provide each tenant with the location of the approved shelter designated by local government to serve the mobile home park.

(c) The location of the park-owned shelter, if any.

History: 1954 ACS 96, p. 25, Eff. July 26, 1978.

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R 125.1707 Snow removal and ice conditions.

Rule 707. All streets and roadways in every mobile home park shall b maintained in a passable condition at all times and reasonably free of ice ar snow.

History: 1954 ACS 96, p. 25, Eff. July 26, 1978.

R 125.1708 Electrical maintenance.

Rule 708. (1) Every building, structure, or part thereof, and any part of th park-owned electrical system shall be kept in good repair by the park owner operator.

(2) Any part of the park electrical system that may present a real or potenti safety hazard shall be immediately disconnected and repaired or condemned compliance with the Michigan electrical code, being R 408.30801 et seq. of th Michigan Administrative Code, so as to protect against injury or loss of life.

History: 1954 ACS 100, p. 53, Eff. Sept. 5, 1979.

PART 8. MOBILE HOME PARK LICENSING

R 125.1801 "Conditional license" defined.

Rule 801. "Conditional license" means a license limited by time or terms, both. The initial conditional license time may be extended by the departme within the license year without payment of additional fees.

History: 1954 ACS 96, p. 25, Eff. July 26, 1978.

R 125.1802 Operation of mobile home park; license required.

Rule 802. A person shall not maintain or operate a mobile home park with this state unless the person obtains a current license issued by the department i the name of a specific mobile home park.

History: 1954 ACS 96, p. 25, Eff. July 26, 1978.

R 125.1803 Application; form; filing.

Rule 803. A completed application on the prescribed form shall be filed wit the department not less than 30 days before the date on which the applica intends to operate the mobile home park.

History: 1954 ACS 96, p. 25, Eff. July 26, 1978.

R 125.1804 Application; filing as successor.

Rule 804. If an applicant files an application for the license as a successo whether or not the successor is then in existence, the application shall meet al requirements of an original application.

History: 1954 ACS 96, p. 25, Eff. July 26, 1978.

R 125.1805 Application; changes, additions, or corrections.

Rule 805. All changes, additions, or corrections to the original applicatio including, but not limited to, changes in business address, officers, and director shall be filed with the department within 10 days after the aforementioned chang or changes are made.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

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R 125.1806 Financial statement.

Rule 806. An applicant shall prepare and submit to the department a financial statement of the corporation, or each general partner of a partnership, or the mobile home park applying for a license.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978; 1954 ACS 100, p. 53, Eff. Sept. 5, 1979.

R 125.1807 License; issuance generally.

Rule 807. A park license may be issued to a park operated by an individual, partnership, association, trust, or corporation, or any other legal entity, or combination thereof, which meets the requirements of the act and these rules.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1808 License; issuance to person under age 18 prohibited.

Rule 808. A mobile home park license shall not be issued to a person under the age of 18.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1809 License; issuance to limited partnership.

Rule 809. A mobile home park license shall not be issued to a limited partnership unless the person applying is a general partner.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1810 License; issuance upon receipt of department of public health certification of compliance; conditional license.

Rule 810. (1) The department may issue a license upon receipt of a certification of compliance from the department of public health that a mobile home park is licensable.

(2) If the department of public health issues a conditional certificate of compliance to the department, the department may issue a conditional license. All conditions set forth in the conditional certification of compliance shall be filed with the department. Even though the department of public health has issued an unconditional certificate, the department may, after notice of hearing, issue a conditional license if other sections of the act and these rules are not met by the licensee. A conditional license may be issued if the applicant or licensee and the department stipulate to a schedule which corrects the deficiencies.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1811 License; request for renewal.

Rule 811. A request for the renewal of a park license shall be on a form provided by the commission and shall be accompanied by a notarized financial statement as provided in R 125.1806 and the fee specified in R 125.1305.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1812 License; application for renewal; tax payment statement.

Rule 812. In addition to other information prescribed by these rules, an application for the renewal of a mobile home park license shall be accompanied by a written and signed statement from the local tax authority stating that all specific taxes are paid to date.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

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R 125.1813 Temporary original license.

Rule 813. The department may authorize or issue temporary original licenses as evidence of proper licensing, containing such information as the department prescribes.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1814 Operation after expiration of license.

Rule 814. A licensed park owner may continue to do business using the expired wall license as evidence of proper licensing if a completed application for renewal and the proper fee have been filed with the department on or before September 30. A license or an applicant for a new license whose application was filed with the department after September 30 shall not do business until a current license is received.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1815 Disposal of interest in park; notice.

Rule 815. A licensee shall notify the bureau in writing within 10 days after having sold, transferred, given away, or otherwise disposed of interest in, or control of, a mobile home park. The notice shall include the name and address of the successor to the ownership or control of the mobile home park.

History: 1954 ACS 96, p. 26, Eff. July 26, 1978.

R 125.1816 New park license; application; issuance; conditions.

Rule 816. (1) An application for a new park license shall be submitted to the department pursuant to R 125.1801 to R 125.1815.

(2) Before an initial license for a new park is issued by the department, the following shall be certified complete pursuant to section 14 of the act:

(a) Fifty percent or 25, whichever is less, of the mobile home sites approved for construction as contained in the permit to construct.

(b) Roads, mobile home site walkways, parking servicing the mobile home sites, and street lighting servicing the sites completed.

(c) At a minimum, the stabilization of the soil on the completed mobile home sites to prevent, as much as possible, erosion and soil runoff.

(3) All easements required for establishment and operation of a mobile home park, whether for benefit or burden, shall be recorded before the issuance of a license. The application shall include as an attachment, a description of these easements by reference to the liber and page number.

(4) If construction is to continue within the mobile home park, the owner or operator shall, when possible, provide a route to future construction areas other than through tenant-occupied areas. The application for a license shall contain a statement to the fact that this rule has been complied with.

(5) Subsequent to the granting of an initial license to a new mobile home park, the developer, owner, or operator shall, at the applicant's discretion, be permitted to file 4 additional applications for a certificate of mobile home site approval before the expiration date of the permit to construct under which the construction of the park project was approved. All applications shall be accompanied with the fee required in R 125.1305.

History: 1954 ACS 98, p. 12, Eff. Feb. 28, 1979.

R 125.1817 Expanded park; certificate of mobile home site approval; certificate of compliance; easements.

Rule 817. (1) On a form prescribed by the commission, the park owner or operator of an existing licensed mobile home park who has expanded his park

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pursuant to a permit to construct shall apply for a certificate of mobile home site approval.

(2) Before a certificate of mobile home site approval is issued by the department, a certificate of compliance shall be filed with the department by the department of public health pursuant to section 17 of the act, and the following shall be certified complete by the owner or operator pursuant to section 14 of the act:

(a) Fifty percent or 25, whichever is less, of the mobile home sites approved for construction as contained in the permit to construct.

(b) Roads, mobile home site walkways, parking servicing the mobile home site, and street lighting servicing the sites completed.

(c) At a minimum, the stabilization of the soil on the completed mobile home sites to prevent, as much as possible, erosion and soil runoff.

(3) All easements required for establishment and operation of a mobile home park, whether for benefit or burden, shall be recorded before the issuance of a license. The application shall include as an attachment a description of the easements by reference to the liber and page number.

(4) Subsequent to the granting of an initial certificate of site approval to the owner or operator of an existing mobile home park that has expanded shall, at the applicant's discretion, be permitted to file 4 additional applications for a certificate of mobile home site approval before the expiration date of the permit to construct under which the construction of park expansion project was approved. All applications shall be accompanied with the fee required in R 125.1305.

History: 1954 ACS 98, p. 12, Eff. Feb. 28, 1979.

PART 9. MOBILE HOME PARK CONSTRUCTION

R 125.1901 Definitions.

Rule 901. As used in this part:

(a) "Access point" means the intersection of the main park entrance or entrances with a public thoroughfare.

(b) "Alley" means a public or private right-of-way which serves as rear access to a parcel or parcels of land and is dedicated as such.

(c) "Blunt-end road" means a dead-end road constructed with no additional turning area.

(d) "Certificate of mobile home site approval" means an order issued by the department which permits a licensed mobile home park owner or operator to rent mobile home sites that were added to the park pursuant to a permit to construct.

(e) "Common pedestrian walkway" means a walk in a mobile home park other than an individual pedestrian walkway, which is intended for the common use of all occupants in the park.

(f) "Dead-end road" means a road in a mobile home park that has no exit at one end.

(g) "Hard surface" means any surfacing method approved by the department which results in a satisfactory walking or driving surface.

(h) "Individual pedestrian walkway" means a private walkway from the common walks or drives to the mobile home site intended for the use of that particular site occupant only.

(i) "Ingress and egress road" means that road which connects a public road with the internal road system of a mobile home park.

(j) "Integral valley curb and gutter" means a curb constructed at the same time the road is constructed, out of the same materials, which provides adequate drainage to carry road surface water.

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(k) "Internal road" means a road contained within the boundaries of a mobile home park and includes a road constructed over an easement.

(l) "Length" means the longitudinal axis of a mobile home or mobile home site.

(m) "Meter" means a nationally recognized and approved device that measures the quantity of electricity, natural gas, liquefied petroleum gas, or fuel oil used.

(n) "Minor recreational area" means children's playground areas which are not a major recreational area.

(o) "Mobile home site" means the entire area which is designated for use by a specific mobile home.

(p) "Pad" means that part of the mobile home site specifically designated for the placement of a mobile home.

(q) "Parking bay" means any area in which more than 2 parking spaces are provided, other than on a mobile home site.

(r) "Permanent foundation" means a base which is not subject to excessive movement caused by changes in weather or mobile home weight distribution.

(s) "Permit to construct" means an order issued by the department upon approval of an application for a permit to construct which permits a developer to construct a mobile home park or permits a licensed park to add mobile home sites or optional improvements, or both.

(t) "Public thoroughfare" means a public road on which access to a mobile home park is gained.

(u) "Service facility" means an optional improvement, which includes, but is not limited to, laundries, vending machine areas, and drying areas.

(v) "Type of site" means a mobile home site designed for installation of a single-wide, double-wide, or triple-wide mobile home.

History: 1954 ACS 98, p. 12, Eff. Feb. 28, 1979; 1954 ACS 100, p. 53, Eff. Sept. 5, 1979.

R 125.1902 Processing of park construction project.

Rule 902. (1) A mobile home park construction project shall be processed according to the following schedule:

(a) If the proposed mobile home park project abuts a lake, stream, or channel or lies entirely or in part within the flood plain of a lake, stream, river, or channel, the developer shall apply to the flood plain management section, department of natural resources, for a permit to occupy or alter the flood plain or channel of a watercourse.

(b) Submission of the identical preliminary plan simultaneously to the municipality, county road commission, county drain commission, and the local health department.

(c) The municipality, county road commission, county drain commission, and the local health department issues approvals to the developer pursuant to section 11(5) of the act.

(d) Submission of all preliminary approvals and 2 copies of the final construction plans to the department of public health.

(e) The department of public health issues approved construction plans to the developer.

(f) The developer submits an application for approval of the construction plans to the department.

(g) The department issues the approved plans to the developer.

(h) The developer submits an application for a permit to construct to the department.

(i) The department issues a certificate of a permit to construct.

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(j) Submission of an affidavit of completion pursuant to section 14 of the act and final plans pursuant to R 125.1913.

(k) Submission of an application for licensure pursuant to R 125.1816, or an application for a certificate of mobile home site approval pursuant to R 125.1817.

(l) The department issues a license or certificate of mobile home site approval.

(2) A developer may simultaneously submit an application for approval of construction plans and an application for a permit to construct to the department, providing the applications are complete pursuant to R 125.1905 and R 125.1915.

(3) If a developer has submitted an application for approval of the construction plans to the department before submission of the application for permit to construct, and the department has approved the construction plans, the department may, within 15 days after filing, issue a permit to construct or an intent to deny.

(4) A developer may designate the department of public health as agent for the purpose of submitting the final construction plans to the department. This designation shall be in writing and shall accompany the local government's preliminary approval and final construction plans filed by the developer with the department of public health.

(5) The affidavit of completion and final plans and application for licensure or certificate of mobile home site approval may be submitted simultaneously.

(6) Approvals or permits pertaining to a mobile home park construction project shall be by written order and mailed or otherwise conveyed to the developer or agent.

History: 1954 ACS 98, p. 13, Eff. Feb. 28, 1979.

R 125.1903 Documents filed with department; form; copies.

Rule 903. A document filed with the department shall be typewritten. One copy of each exhibit or document shall be submitted; however, the department may require more than 1 copy of any exhibit or document. All documents filed pursuant to these rules shall be copies of the originals and shall become part of the department's records. All documents are subject to the provision of Act No. 442 of the Public Acts of 1976, being §§15.231 to 15.246 of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 14, Eff. Feb. 28, 1979.

R 125.1904 Preliminary plan; review by local agencies; notice of approval or deficiencies.

Rule 904. (1) A permit to construct a mobile home park shall not be issued until the approval by the county road commission, county drain commission, municipality, and local health department is obtained by the developer or the statutory time limit has expired pursuant to section 11(5) of the act.

(2) A preliminary plan shall be submitted to the reviewing agencies indicated in this rule, which shall be responsible for implementing its standards for a preliminary plan, pursuant to the requirements of section 11(1), (2), (3), and (4) of the act.

(3) The reviewing agencies shall examine the preliminary plan and notify the developer, in writing, of approval or deficiencies.

(4) A copy of each preliminary approval and the plans shall be submitted to the department of public health by the developer for approval by that department pursuant to section 11(7) of the act.

History: 1954 ACS 98, p. 14, Eff. Feb. 28, 1979.

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R 125.1905 Construction plans; application for approval; exhibits; issuance of approval or intent to deny.

Rule 905. (1) The department shall not issue an approval of the construction plans until all of the following are received from the developer and are approved by the department:

(a) Mobile home park construction plans and specifications.

(b) The fee as specified in R 125.1315.

(c) On a form prescribed by the commission, an application and required exhibits completely and accurately filled out and executed.

(2) An application shall be executed in the presence of witnesses and notarized.

(3) An application shall not be considered complete until the items listed in subrule (1)(a), (b), and (c) have been received.

(4) The following exhibits shall be submitted with the application by the developer:

(a) Copies of all existing and proposed easements or dedications.

(b) Certified copy of soil analysis showing frostline data, if foundations are intended to be constructed at less than 42 inches.

(c) Approvals of the local health department, county road commission, county drain commission, and local municipality, or an affidavit from the developer that the statutory time limit pursuant to section 11(5) of the act has expired without the unit of local government taking the appropriate action.

(d) Approval of the department of public health, pursuant to the act.

(e) Approval by the flood plain management section, department of natural resources, if needed.

(5) The department shall issue an approval of the construction plans or intent to deny order within 90 days after receipt of a complete application.

History: 1954 ACS 98, p. 14, Eff. Feb. 28, 1979.

R 125.1906 Construction plan; drawings; preparation and contents.

Rule 906. (1) The drawings which constitute the plan shall be prepared by an architect or engineer who is licensed to practice in this state. More than 1 such individual may prepare different segments of the same mobile home park construction plan. Submissions for review shall be reproductions of original drawings. Each sheet shall contain the name of the mobile home park, name and address of the firm responsible for the preparation of that sheet, and shall bear a seal and signature of the person responsible for the preparation of that sheet.

(2) A complete set of working drawings and specifications for the construction of a proposed mobile home park shall include types of materials, details, plans, sections and elevations, where applicable, for the construction of all internal roads, parking facilities, utilities, recreational facilities, and optional improvements and any other facilities which are intended for use by the mobile home park, residents, or visitors.

History: 1954 ACS 98, p. 15, Eff. Feb. 28, 1979.

R 125.1907 Construction plan; preparation requirements.

Rule 907. When preparing a mobile home park construction plan the architect or engineer shall comply with the following:

(a) A scale shall be used in preparing the drawings.

(b) Each sheet shall be numbered and the total number of sheets in the set shall be shown.

(c) The plan submitted for review may be reproduced in any conventional manner.

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(d) All prints of plans submitted for review shall be free of unnecessary background and legible for photo-reduction.

(e) The scale of each drawing shall be depicted on each plan.

(f) All sheets shall be dated.

(g) The name of the mobile home park shall be shown on each sheet.

(h) Match lines shall be used when the survey plan, site plan, or floor plans are shown on more than 1 sheet.

(i) A 3-inch by 3-inch space shall be provided by the department's approval stamp on each sheet.

History: 1954 ACS 98, p. 15, Eff. Feb. 28, 1979.

R 125.1908 Construction plans; contents.

Rule 908. A complete set of mobile home park construction plans shall include specifications and working drawings. These documents shall show the design, location, dimensions, materials, quality of materials, and workmanship standards necessary to construct the proposed mobile home park as related to road construction, utilities construction, mobile home site construction, density, layout, open spaces, and other improvements to protect the health, safety, and welfare of mobile home park residents. Recreational facilities and any optional improvements for tenant convenience shall be included on the plans. Specific plans shall include all of the following:

(a) A cover sheet containing the following:

(i) The name and location of the mobile home park.

(ii) A comprehensive sheet index.

(iii) Legend of materials.

(iv) List of abbreviations.

(v) Schedule of symbols.

(b) A site plan showing all of the following:

(i) Location of all structures, walkways, roads, parking and street frontage.

(ii) Proposed contours and related earth work information to show how the site is to be graded.

(iii) All existing and proposed easements and encroachments, whether of benefit or burden, dimensioned and identified.

(iv) A boundary survey of the property and legal description performed by a land surveyor registered in this state.

(v) A survey bench mark shown by symbol and described with its elevation referenced to an official bench mark of the national geodetic survey or the United States geological survey, which are based on the national geodetic vertical datum of 1929.

(vi) Identification of all contiguous properties or waterways.

(vii) If future park expansion is contemplated beyond that for which the plans are submitted, all land on which the current project is to be located shall be shown, complete with distances, bearings, and curve data.

(viii) A location map of the project with its relationship to the surrounding area.

(ix) Flood plain data when the mobile home park lies within or abuts a 100-year flood plain showing the 100-year contour line to the point where it intersects with the boundaries of the mobile home park or its limits, whichever is greater.

(x) If a flood plain area exists, it shall be clearly labeled with the words "FLOOD PLAIN AREA."

(xi) A mobile home pad shall not be placed at an elevation below the 100-year contour line.

(c) A typical mobile home site at an enlarged scale showing the following:

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(i) Foundation construction.

(ii) Pad sizes and location within the site.

(iii) Details and location of sewer and water connections.

(iv) Details and location of the utility pedestal which includes location and types of meters, location of the system circuit breaker for electricity, and location and types of shutoff valves for gas.

(v) Type of site.

(vi) On-site parking and other improvements.

(d) A utility plan showing the following:

(i) All primary and secondary distribution lines for gas, electricity, telephones, or services of a similar nature.

(ii) The size and material type of the various utility lines.

(e) The remainder of the plans required may be floor plans, sections and elevations, and related details as required to sufficiently describe the construction of the mobile home park.

(f) Where appropriate, plans may be combined, provided legibility is not impaired.

History: 1954 ACS 98, p. 15, Eff. Feb. 28, 1979.

R 125.1909 Construction plans; identifying mobile home sites and optional site improvements.

Rule 909. Individual mobile home site or optional site improvements, or both, shall be identified as follows:

(a) Each mobile home site within a park shall be numbered consecutively starting with the number 1.

(b) Each mobile home site number shall be shown within the area of that particular site on the mobile home park construction plans.

(c) Each structure or optional improvement, other than the mobile home sites, shall be identified by its title.

History: 1954 ACS 98, p. 16, Eff. Feb. 28, 1979.

R 125.1910 Site plan; illustration of facilities.

Rule 910. A facility which is part of the mobile home park shall be illustrated on the site plan in its proposed location and shall be so identified. Actual floor plans, sections, elevations, and related details of the facility, if it involves a structure, shall be included.

History: 1954 ACS 98, p. 16, Eff. Feb. 28, 1979.

R 125.1911 Surveys.

Rule 911. A survey shall be performed and established in accordance with Act No. 132 of the Public Acts of 1970, being §§54.211 to 54.213 of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 16, Eff. Feb. 28, 1979.

R 125.1912 Filing changes in plans with department; notice of approval or disapproval.

Rule 912. Bulletins, addendums, or shop drawings depicting changes shall be filed with the department for approval before any physical changes are made. The department shall notify the developer within 10 days after receipt of the change of approval or disapproval.

History: 1954 ACS 98, p. 16, Eff. Feb. 28, 1979.

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R 125.1913 Filing affidavit certifying completion with department; submission of final plans and specifications to department.

Rule 913. (1) Final plans shall be required on all mobile home park construction projects.

(2) Upon completion of construction of all buildings and site improvements represented on the approved mobile home park construction plans and specifications, the developer, owner, or operator of the park, in conjunction with an architect or engineer, shall file an affidavit with the department, certifying that the mobile home park, sites, and related work were completed pursuant to the approved plans and specifications and the permit to construct.

(3) Upon or after filing of the affidavit, the developer shall submit the final plans and specifications to the department.

(4) The final plans and specifications shall be an update of the original documents depicting all approved changes. Each sheet of the final plans shall be labeled "FINAL PLANS" and dated, and any notations referencing the project as proposed shall be removed.

(5) A developer shall submit the final plans and specifications on 35 millimeter microfilm aperture cards. The microfilm aperture cards shall be standard cards measuring approximately 3¼ inches by 7⅜ inches, with a window suitable for framing 1 frame of 35 millimeter film. A card shall identify the name of the mobile home park, the file number, and identification of what is on that particular frame. A card shall also have the following wording along the top edge for filing purposes: Lot No. _____ Box No. _____.

History: 1954 ACS 98, p. 17, Eff. Feb. 28, 1979.

R 125.1914 Correction of construction plan errors; consolidation.

Rule 914. All corrections of errors shall be reviewed by the department before an approval of the plans or a permit to construct shall be issued. Where an error involves only the correction of certain pages of the mobile home park construction plans, insert pages will be accepted and retained by the department. A final consolidation of all corrections shall be made on the original drawings when filing the final plans under R 125.1913.

History: 1954 ACS 98, p. 17, Eff. Feb. 28, 1979.

R 125.1915 Permit to construct; application; exhibits; issuance of permit or intent to deny order.

Rule 915. (1) The department shall not issue a permit to construct until all of the following are received from the developer and are approved by the department:

(a) Mobile home park construction plans.

(b) On a form prescribed by the commission, an application with required exhibits completely and accurately filled out and executed.

(c) The fee as specified in R 125.1315.

(2) An application shall be executed in the presence of witnesses and notarized.

(3) An application shall not be considered complete until the items referred to in subrule (1)(a) and (b) have been received.

(4) The following exhibits shall be submitted with the application by the developer:

(a) In affidavit form, evidence of title to the property, or a copy of any land contracts of purchase, including any prior land contracts in effect.

(b) Schedule of completion, including, but not limited to, number of sites to be constructed and optional improvements.

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(5) The department shall issue a permit to construct or intent to deny order within 15 days after receipt of a complete application.

History: 1954 ACS 98, p. 17, Eff. Feb. 28, 1979.

R 125.1916 Review of application for permit to construct.

Rule 916. To facilitate the review of the application for permit to construct, the department may request advice from other state agencies and may require the developer to submit engineering reports, site reports, topographic and other maps, and other data.

History: 1954 ACS 98, p. 17, Eff. Feb. 28, 1979.

R 125.1917 Construction reports, tests, and other data; availability to department.

Rule 917. All reports, tests, or other data used to determine construction suitability or structural stability shall be available to the department or its authorized representative upon request.

History: 1954 ACS 98, p. 17, Eff. Feb. 28, 1979.

R 125.1918 Field inspections.

Rule 918. The department or its authorized representative may make field inspections as it deems necessary to constitute an accurate evaluation and review of the park before, during, or after construction to insure compliance with these rules and the approved plans.

History: 1954 ACS 98, p. 18, Eff. Feb. 28, 1979.

R 125.1919 Permit to construct; issuance; validity; transferability; notice of changes in schedule of completion.

Rule 919. (1) Pursuant to a permit to construct, a developer, owner, or operator may construct a new mobile home park or expand an existing licensed mobile home park, and advertise the new park or expansion. All park advertising shall comply with R 125.2002.

(2) When the permit to construct has been issued, the department shall return 1 copy of the approved mobile home park construction plans to the developer. The park shall retain the approved plans for permanent records and shall render these plans available upon request for inspections by the department, the department of public health, or their authorized representatives.

(3) The developer shall notify the department in writing of any changes in the approved schedule of completion. The reason for the change shall be clearly stated.

(4) A permit to construct shall be valid for 5 years after the date of issuance and may be renewed, after notice of hearing, by the department.

(5) A permit to construct is not transferable unless approved by the department.

History: 1954 ACS 98, p. 18, Eff. Feb. 28, 1979.

R 125.1920 Internal roads; general requirements; local conditions.

Rule 920. (1) An internal road is subject to approval by the department and shall comply with the following general requirements:

(a) The road shall be hard surfaced.

(b) The road shall have access to public thoroughfare or be connected to a public thoroughfare by a permanent easement, recorded prior to approval by the department. Sole access by an alley is prohibited.

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(c) A dead-end road shall terminate with an adequate turning area. A blunt end road is prohibited.

(d) An adequate safe-sight distance shall be provided at intersections.

(e) An offset at an intersection and an intersection of more than 2 streets is prohibited.

(f) An intersection of roads shall be clearly marked with appropriate traffic signs.

(g) A road shall be named and so identified by street signs located at all road intersections.

(h) A name for an internal road shall be approved by the municipality.

(i) A road shall have a driving surface of not less than the following:

(i) One way, with no parking.....13 feet

(ii) Two way, with no parking.....21 feet

(iii) At access points where general traffic enters or leaves the park, the widths shall be sufficient to permit free movement from or to the stream of traffic on the public roads.

(2) Local conditions, such as heavy snowfall, may dictate the need for wider roads to provide for free flow of vehicular and pedestrian traffic, parking, and to facilitate removal without blocking access to the mobile home site.

History: 1954 ACS 98, p. 18, Eff. Feb. 28, 1979.

R 125.1921 Internal roads; alignment and gradient.

Rule 921. The alignment and gradient of an internal road shall be adapted to the topography and shall be graded for its full width to drain surface water. When grading roads in length, the finish grade of the street shall not be greater than 8% and not less than 0.4% of the length. Short lengths with a maximum grade of 12% may be permitted, provided traffic safety is assured.

History: 1954 ACS 98, p. 18, Eff. Feb. 28, 1979.

R 125.1922 Internal roads; construction materials.

Rule 922. (1) An internal road shall be constructed of materials suitable for subgrades and hard surface in compliance with the standards of the American association of state highway and transportation officials (AASHTO), 1974 edition, adopted herein by reference. Copies are available from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, N.W., Suite 225, Washington, D.C. 20001 at a prepaid cost of $4.25, or from the Department of Commerce, Corporations and Securities Bureau, Mobile Home Section, P.O. Box 30222, Lansing, Michigan 48909 at a cost of $4.25.

(2) The park developer may use other suitable materials of equal quality, if approved by the department.

History: 1954 ACS 98, p. 18, Eff. Feb. 28, 1979.

R 125.1923 Internal roads; curbing.

Rule 923. Curbing may be installed on all internal roads. If curbing is used, it shall be constructed as follows:

(a) Curbing shall be concrete with the exception of the integral valley curb and gutter (gravity drains), which may be either concrete or asphalt.

(b) If integral valley curbing and gutter or mountable curb and gutter is used, the height of the curb measured from the gutter line shall be between 3 and 5 inches.

(c) Crosswalks shall conform to Act No. 8 of the Public Acts of 1973, being §125.1361 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 19, Eff. Feb. 28, 1979.

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R 125.1924 Driveways.

Rule 924. Improved hard surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings; to delivery and collection points for fuel, refuse, and other materials; and elsewhere as needed. The minimum width shall be 10 feet. The entrance shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.

History: 1954 ACS 98, p. 19, Eff. Feb. 28, 1979.

R 125.1925 On-site vehicle parking.

Rule 925. If on-site vehicle parking is provided, it shall be in compliance with the following:

(a) Each mobile home site shall have 2 parking spaces either in tandem or side-by-side. If in tandem, the width shall not be less than 10 feet and the combined length shall not be less than 40 feet. If side-by-side, the combined width of the 2 parking spaces shall not be less than 19 feet and the length shall be 20 feet. In either method, the length shall be measured from the curb or inner walkway edge.

(b) A parking space shall be hard surface and constructed in compliance with Act No. 8 of the Public Acts of 1973, being §125.1361 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 19, Eff. Feb. 28, 1979.

R 125.1926 Additional parking facilities.

Rule 926. (1) Parking facilities shall be provided for the storage of mobile homes if a sales office is a part of the park operation.

(2) Parking facilities shall be provided for the storage of maintenance vehicles.

(3) Parking facilities shall be provided at the office location for office visitors.

(4) A minimum of 1 parking space for every 3 mobile home sites shall be provided for visitor parking located convenient to the area served.

(5) If off-street parking bays are provided, they shall comply with the following:

Parking angle	Curb length per car	Minimum bay depth
Parallel	20 feet	10 feet
90 degrees	10 feet	20 feet
60 degrees	12.5 feet	19 feet
45 degrees	12.7 feet	18 feet

(6) If off-site parking facilities are provided in bays and at office or other facilities, they shall be in compliance with R 408.30427 of the Michigan Administrative Code.

(7) If not provided for on-site or in parking bays, a separate parking area may be provided for vehicles that cannot be accommodated within the standards set forth in these rules and for recreational vehicles, such as motor homes, travel trailers, and snowmobiles.

History: 1954 ACS 98, p. 19, Eff. Feb. 28, 1979; 1954 ACS 100, p. 54, Eff. Sept. 5, 1979.

R 125.1927 Vehicular circulation system.

Rule 927. An internal road system shall provide safe, convenient vehicular circulation to and from any access points, all mobile home sites, laundry facilities,

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recreational facilities, office facilities, and any other facilities necessary for the normal operation of the mobile home park.

History: 1954 ACS 98, p. 19, Eff. Feb. 28, 1979.

R 125.1928 Pedestrian circulation system.

Rule 928. A pedestrian circulation system shall be designed, constructed, and maintained for safe and convenient movement from all mobile home sites to principal destinations within the park and connection to the public pedestrian circulation system outside the park, if such a system exists. A pedestrian circulation system shall satisfy the following requirements:

(a) Internal roads may be used as pedestrian ways except where concentrations of either pedestrian or vehicular traffic are likely to lead to congestion or hazards.

(b) Separate pedestrian ways shall be provided in locations where pedestrian traffic is concentrated, if use of the roads creates a hazard because of concentrations of either pedestrian or vehicular traffic.

(c) Separate pedestrian ways shall be provided at points where use of roads would lead to unduly circuitous pedestrian routes to principal destinations. If possible, walks shall be through interior areas away from heavy or fast-moving traffic.

(d) Where steps are installed, they shall rise no steeper than 5 feet vertically and 10 feet horizontally. Handrails shall be installed in compliance with R 408.30446 of the Michigan Administrative Code.

(e) Where steps are installed along common pedestrian walkways, ramps shall be installed in compliance with R 408.30445 of the Michigan Administrative Code.

(f) A common pedestrian walkway shall have a minimum width of 3 feet.

(g) An individual pedestrian walkway shall connect to a common pedestrian walkway, or to a road where common walkways do not exist to individual driveways or parking spaces and the mobile home foundation. An individual pedestrian walkway shall be not less than 3 feet in width.

History: 1954 ACS 98, p. 20, Eff. Feb. 28, 1979.

R 125.1929 Vehicular and pedestrian circulation systems; illumination levels.

Rule 929. All vehicular and pedestrian circulation systems within a mobile home park shall be illuminated as follows:

(a) Access points to public thoroughfares shall be lighted. If the public thoroughfare is lighted, the illumination level shall not exceed the average illumination level of an adjacent illuminated thoroughfare.

(b) At all street intersections and designated pedestrian crosswalks, the minimum illumination shall be not less than .25 footcandles.

(c) Roads, parking bays, and pedestrian walkways shall be illuminated at no less than .15 footcandles.

(d) If a central park mail box area or park directories, or both, are provided, they shall be illuminated at not less than 10 horizontal footcandles on any box or any entry on the directory.

(e) Outdoor recreational facilities shall be adequately lighted, when in use.

History: 1954 ACS 98, p. 20, Eff. Feb. 28, 1979.

R 125.1930 Maintaining hard surface roads, walkways, driveways, and mobile home sites.

Rule 930. Hard surface roads, walkways, driveways, and mobile home sites shall be maintained in such a manner that they are of a sound and reasonably smooth surface for either walking or driving. Surfaces shall be maintained

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reasonably free of cracks, holes, upheavals, buckling, depressions, rutting, or channeling of the wearing surface, or shiftings of the pavement base and subbase, or both.

History: 1954 ACS 98, p. 20, Eff. Feb. 28, 1979.

R 125.1931 Compliance.

Rule 931. It shall be incumbent upon the park to show proof of compliance with these rules upon request of the department or its authorized representative.

History: 1954 ACS 98, p. 20, Eff. Feb. 28, 1979.

R 125.1932 Mobile home park electrical system.

Rule 932. A park electrical system shall, at a minimum, be designed, installed, operated, and maintained in compliance with the rules entitled "Electrical Lines and Equipment," being R 460.521 to R 460.572 of the Michigan Administrative Code, and pursuant to the construction, installation, and safety standards of the servicing public service company. In addition, the following shall be complied with:

(a) Primary and secondary distribution lines shall be installed underground.

(b) The system shall be designed to provide adequate service pursuant to applicable codes and the manufacturer's standard for the appliance or appliances to be served.

(c) A mobile home site shall have installed an approved individual weatherproof meter. A park master meter shall not be used.

History: 1954 ACS 98, p. 20, Eff. Feb. 28, 1979.

R 125.1933 Circuit breakers.

Rule 933. A mobile home site shall have installed an approved easily accessible electrical systems circuit breaker located at the pedestal, which shall be installed by a licensed electrician. The circuit breaker shall be covered.

History: 1954 ACS 98, p. 21, Eff. Feb. 28, 1979.

R 125.1934 Mobile home park natural gas system.

Rule 934. The design, installation, operation, and maintenance of a park natural gas system shall, at a minimum, comply with the rules entitled "Gas Safety Code," being R 460.14001 to R 460.14999 of the Michigan Administrative Code and the rules entitled "Technical Standards for Gas Service," being R 460.2301 to R 460.2384 of the Michigan Administrative Code, and pursuant to the construction, installation, and safety standards of the servicing public utility company. In addition, the following shall be complied with:

(a) Main and site service lines shall be installed underground.

(b) Gas piping shall not be installed under a mobile home pad or mobile home, except for the piping required to connect the mobile home to the servicing pedestal.

(c) A mobile home site shall be equipped with an approved weatherproof gas regulator and individual meter. A park master meter shall not be used.

(d) A mobile home site shall have an approved gas shutoff valve installed upstream of the site gas outlet and located on the inlet riser not less than 4 inches above the ground. This valve shall not be located under a mobile home.

(e) The minimum hourly volume of gas required at each point shall be designed pursuant to applicable codes and the manufacturer's standard for the appliance or appliances served.

History: 1954 ACS 98, p. 21, Eff. Feb. 28, 1979.

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R 125.1935 Mobile home park centralized liquefied petroleum gas (LPG) system.

Rule 935. If provided, a centralized park liquefied petroleum gas (LPG) system shall be designed, installed, operated, and maintained pursuant to the rules entitled "Liquefied Petroleum Gases," being R 28.3801 to R 28.3818 of the Michigan Administrative Code and pursuant to R 460.14051 of the Michigan Administrative Code. In addition to the aforementioned rules, the following shall be complied with:

(a) Main and site service lines shall be installed underground.

(b) A mobile home site shall have installed an approved liquefied petroleum gas meter.

(c) The minimum hourly volume of liquefied petroleum gas required at each point in the system shall be calculated pursuant to applicable codes and the manufacturer's standard for the appliance or appliances to be served.

History: 1954 ACS 98, p. 21, Eff. Feb. 28, 1979.

R 125.1936 Individual mobile home liquefied petroleum gas (LPG) system.

Rule 936. If individual mobile home liquefied petroleum gas systems are permitted, the installation, operation, and maintenance shall comply with the system's and mobile home manufacturer's installation standard and the rules entitled "Liquefied Petroleum Gases," being R 28.3801 to R 28.3818 of the Michigan Administrative Code.

History: 1954 ACS 98, p. 21, Eff. Feb. 28, 1979.

R 125.1937 Mobile home park centralized fuel oil systems.

Rule 937. (1) If provided, park centralized fuel oil systems shall be designed, installed, operated, and maintained in compliance with NFPA no. 31, 1974, standards for the installation of oil burning equipment which is adopted herein by reference, and the rules entitled "Flammable Liquids," being R 28.601 to R 28.740 of the Michigan Administrative Code. Copies of NFPA no. 31 are available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210 at a cost of $4.40, or from the Department of Commerce, Corporations and Securities Bureau, Mobile Home Section, P.O. Box 30222, Lansing, Michigan 48909 at a cost of $4.40.

(2) In addition to standards set forth in subrule (1) of this rule, the following shall be complied with:

(a) Main and site service lines shall be installed underground.

(b) Each mobile home site shall have installed an approved weatherproof fuel oil meter.

(c) If needed, the fuel oil system shall be equipped with an approved underwriters laboratory (UL) or similarly listed heating system to prevent freezing in cold weather.

History: 1954 ACS 98, p. 21, Eff. Feb. 28, 1979.

R 125.1938 Mobile home site meter calibration.

Rule 938. A mobile home site meter connected to a centralized park electric and fuel service system shall, at a minimum, be calibrated upon installation, and every seventh year thereafter by an independent calibrating company.

History: 1954 ACS 98, p. 21, Eff. Feb. 28, 1979.

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R 125.1939 Individual mobile home site fuel oil systems.

Rule 939. If individual fuel oil systems are permitted, they shall comply with the rules entitled "Flammable Liquids," being R 28.601 to R 28.740 of the Michigan Administrative Code and the following:

(a) A mobile home site shall be equipped with an individual fuel oil tank of not less than 100-gallon capacity constructed in accordance with state and local codes and ordinances, but as a minimum, in accordance with chapter 2, NFPA no. 31 which is adopted by reference pursuant to R 125.1937. A commercial shipping container (drum) or similar container shall not be used.

(b) The fuel oil tank may be above or below ground.

(c) If the fuel oil tank is above the ground, it shall be securely installed. Piping to the mobile home shall be securely fastened in place to prevent damage.

(d) Fuel oil tanks shall be a minimum of 10 feet from any mobile home exit door.

(e) Fuel oil tanks shall be vented by a minimum of 1¼-inch vertical pipe and designed to prevent the entrance of rain or debris.

(f) A manual shutoff valve shall be installed at the fuel oil tank on the fuel oil line.

(g) Piping for the fuel oil system shall be approved brass or copper tubing, or approved flexible metal hose at a minimum of ⅜-inch outside diameter.

(h) Valves and connectors shall be listed standard fittings and maintained liquid-tight to prevent spillage of the fuel oil on the ground.

(i) If needed, a fuel oil tank shall be equipped with an approved underwriters laboratory (UL) or similarly listed heating device to prevent the fuel oil from freezing during cold weather.

History: 1954 ACS 98, p. 22, Eff. Feb. 28, 1979.

R 125.1940 Television, telephone, and certain heating systems; compliance with state or local codes and ordinances.

Rule 940. (1) If central television antenna systems, cable television, or other such services are provided, the distribution systems shall be underground and shall be constructed and installed pursuant to state and local codes and ordinances.

(2) Telephone systems shall be installed underground and shall comply with state and local codes and ordinances. If state and local codes and ordinances do not exist, the system shall be installed pursuant to the construction, installation, and safety standards established by the servicing telephone company.

(3) When a heating system other than natural gas, liquefied petroleum gas (LPG), or fuel oil is used, the system shall comply with state or local codes and ordinances.

History: 1954 ACS 98, p. 22, Eff. Feb. 28, 1979.

R 125.1941 Mobile home; required distances from other structures; site length and dimensions.

Rule 941. (1) A mobile home shall be a minimum of:

(a) Twenty feet from any part or attached structure of another mobile home and used for living purposes.

(b) Ten feet from any detached structure and on-site parking on an adjacent mobile home site.

(c) Fifty feet from a permanent building.

(d) One hundred feet from a baseball or softball field.

(2) Any part or structure belonging to a mobile home shall be set back a minimum of:

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(a) Ten feet from the edge of an internal road and 7½ feet from a parking bay.

(b) Seven feet from a common pedestrian walkway.

(c) Ten feet from a natural or man-made lake, or other natural or man-made objects or waterways.

(3) A mobile home site length may vary depending on park design and layout, and the mobile home to be installed; however, the minimum standards pertaining to distance between mobile homes shall be complied with.

(4) Site dimensions may be computed with consideration given to anticipated add-a-room attachments to a placed mobile home, or expando or similar expansions.

History: 1954 ACS 98, p. 22, Eff. Feb. 28, 1979.

R 125.1942 Layout.

Rule 942. Layout of a mobile home park and other facilities intended for tenant use shall be in accordance with acceptable architectural and engineering practices and shall provide for the convenience, health, safety, and welfare of the tenants.

History: 1954 ACS 98, p. 22, Eff. Feb. 28, 1979.

R 125.1943 Mobile home site construction.

Rule 943. (1) A mobile home site shall have installed a means by which the mobile home shall be supported on a permanent foundation.

(2) The location of the pedestal may vary according to park design and layout, and for ease of mobile home installation and utility hook-ups.

(3) Pads shall be constructed to achieve adequate surface drainage.

(4) On-site parking spaces may be provided with car stops.

(5) A mobile home site shall be designed for the exclusive use of 1 mobile home family. If a mobile home on a site is to be used as a multiple dwelling, the site shall be constructed to accommodate each family pursuant to these rules.

History: 1954 ACS 98, p. 23, Eff. Feb. 28, 1979.

R 125.1944 Setbacks from property boundary lines.

Rule 944. (1) Mobile homes, permanent park buildings and facilities, and other structures shall not be located closer than 10 feet from the property boundary line of the park.

(2) If mobile homes, permanent park buildings and facilities, and other structures abut a public right-of-way, they shall not be located closer than 25 feet from the park boundary line. This rule does not apply to internal park roads if dedicated for public use, providing the roads do not present a nuisance or safety hazard to the park tenants.

History: 1954 ACS 98, p. 23, Eff. Feb. 28, 1979.

R 125.1945 Screening; fencing.

Rule 945. (1) Mobile home parks may be completely screened by fencing or natural growth along the entire property boundary line, including the line abutting a public thoroughfare, except at access points.

(2) Individual mobile home site fencing, if permitted by the park, shall be not more than 3 feet high and shall have not less than 2 access gates which provide free access to all sides of the mobile home in the event of an emergency. The fencing shall be approved by the park before installation and upon completion.

History: 1954 ACS 98, p. 23, Eff. Feb. 28, 1979.

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R 125.1946 Open space requirements.

Rule 946. (1) A mobile home park that contains 50 or more mobile home sites shall have at least 1 easily accessible open space area containing not less than 25,000 square feet.

(2) The total of the land dedicated for open space shall not be less than 2% of the park's gross acreage that is approved for construction pursuant to a permit to construct, but not less than 25,000 square feet.

History: 1954 ACS 98, p. 23, Eff. Feb. 28, 1979.

R 125.1947 Optional improvements.

Rule 947. (1) Optional improvements such as swimming pools, recreational buildings, children's playgrounds, picnic areas, game fields and courts or similar areas or facilities shall be considered as fulfilling part or all of the total open space requirement.

(2) Optional improvements such as laundries, swimming pools, buildings and other structures, service facilities, and areas for recreational or service use shall comply with current state building codes pertinent to construction.

(3) If optional improvements are provided, they may be consolidated into a single facility.

History: 1954 ACS 98, p. 23, Eff. Feb. 28, 1979.

R 125.1948 Mobile home park design and construction variance; procedure.

Rule 948. (1) Pursuant to section 18 of the act, the commission subject to its approval delegates the authority to the bureau to enter into agreements with mobile home park developers, owners, or operators for the purpose of granting a variance to the park design and construction rules promulgated by the commission.

(2) A mobile home park developer, owner, or operator may file a request with the bureau for a specific variance to the park design and construction rules if the specific requirement would cause an exceptional practical difficulty in the development of a new park or the expansion of an existing park.

(3) The applicant shall file with the local government and the department of health a notice of request at the time the request is filed with the bureau. The request shall be in written letter form and shall include, but is not limited to, the following:

(a) Specific identification of the rule requirement by rule number, paragraph, and subparagraph, if needed.

(b) Specific reason or reasons for the variance.

(c) A statement or statements pertaining to why the condition caused by the requirement is not general or recurring in nature so as to cause the bureau to recommend to the commission that consideration be given to amend the rules as the most practical means to rectify the difficulty.

(d) A statement or statements specifically pertaining to the difficulty encountered if the specific requirement of the rule was literally applied.

(e) A statement or statements specifically pertaining to the difficulty encountered in insuring the protection of the health, safety, and welfare of park tenants if the specific requirement of the code was literally applied, if applicable.

(f) Any other specific information and data pertinent to justification for the specific variance.

(4) If the variance conflicts only with the mobile home park design and construction rules, the request shall be reviewed together with the local government's and the department of public health's comments by the bureau which shall

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approve the request or issue an intent to deny letter stating the reasons for denial, giving the proponent reasonable notice and opportunity for a hearing.

(5) If a local government grants a specific variance which permits a mobile home park developer, owner, or operator to engage in activities that are in violation of the minimum design and construction standards required by these rules, the local government shall file with the bureau, within 15 days of the approval, a copy of the variance order and a detailed explanation pertaining to the reasons for granting the variance. The bureau may approve or disapprove the variance.

(6) When necessary, the bureau may, in writing, attach a condition to the granting of a variance to protect the health, safety, and welfare of the citizens of this state.

(7) In all instances, the variance shall be the minimum necessary to relieve the specific condition which causes exceptional, practical difficulty to the applicant.

(8) If a developer, owner, or operator of a mobile home park, or a local government is aggrieved by the decision of the bureau, the aggrieved party shall have the right to petition the commission for a hearing pursuant to R 125.1135.

(9) This rule does not apply to a request for a variance to a local ordinance, zoning requirement, or local rules which may be granted only by local government pursuant to section 18(4) of the act.

History: 1954 ACS 98, p. 23, Eff. Feb. 28, 1979.

PART 10. MOBILE HOME PARK BUSINESS PRACTICES

R 125.2001 Definitions.

Rule 1001. As used in this part:

(a) "Complaint record" means a written record of each written complaint pertaining to the park received from tenants submitted to the mobile home park and shall include the nature of the complaint, name of tenant submitting the complaint, date submitted, date resolved, and resolution.

(b) "Entrance fee" means a fee charged by a mobile home park as a condition precedent, subsequent, or concurrent to the right to reside in the park. It does not include any of the following:

(i) Security deposits.

(ii) Fees and taxes charged by a unit of government. This does not ordinarily include fees and taxes, which are related to capital improvements, to be paid by the park.

(iii) Deposits for service charged by public utilities.

(iv) Utility charges billed directly to the tenant by the park.

(v) Rent.

(vi) Actual cost of a credit report, if one is obtained.

(vii) Such other fees as may, from time to time, be determined by the commission by declaratory ruling, rule, or interpretive statement.

(viii) Nonrefundable cleaning fee as allowed by law.

(c) "Exit fee" means any fee charged by a mobile home park as a condition precedent, subsequent, or concurrent to the right to terminate tenancy. This does not foreclose the right of the park to retain the security deposit under Act No. 348 of the Public Acts of 1972, being §§554.601 to 554.616 of the Michigan Compiled Laws.

(d) "Inventory checklist" means the identical written form used at the commencement and termination of tenancy that shall record the condition of all items on the mobile home site that are owned by the mobile home park, including, but not limited to, pads, utility hook-ups, patios, driveways, parking spaces, sewer connections, and mobile home installation materials.

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(e) "Lease" means a written agreement for the use, possession, and occupancy of a mobile home site or mobile home, or both, which contains all conditions of tenancy and may include the rules and regulations of the park.

(f) "Optional improvement" means an amenity in new park construction or existing licensed park expansion which is not a requirement under the park construction rules contained herein.

(g) "Park rules" means a written document promulgated by the mobile home park that may regulate, but is not limited to, yard maintenance, automobiles, children, pets, guests, garbage and rubbish disposal, rental payments, or other conditions of tenancy and includes the informational and disclosure items included in R 125.2006.

(h) "Rent" means any consideration paid by a tenant for the right of use, possession, and occupancy of a mobile home site or mobile home, or both, and other facilities made available to the tenant by the mobile home park.

(i) "Security deposit" means a deposit, in any amount, paid by the tenant to the landlord or his agent to be held for the term of the rental agreement, or any part thereof, and includes any required prepayment of rent other than the first full rental period of the lease agreement; any sum required to be paid as rent in any rental period in excess of the average rent for the term; and any other amount of money or property returnable to the tenant on condition of return of the rental unit by the tenant in condition as required by the rental agreement. Security deposit does not include an amount paid for an option to purchase, pursuant to a lease with option to purchase, unless it is shown the intent was to evade this act.

(j) "Specific tax" means the tax levied upon a mobile home under Act No. 243 of the Public Acts of 1959, being §§125.1041 to 125.1043 of the Michigan Compiled Laws.

(k) "Tax payment record" means a written record of specific taxes paid by the mobile home park, including dates due and dates paid, in accordance with Act No. 243 of the Public Acts of 1959, as amended, being §§125.1041 to 125.1043 of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 24, Eff. Feb. 28, 1979; 1954 ACS 100, p. 55, Eff. Sept. 5, 1979.

R 125.2002 Advertising.

Rule 1002. A mobile home park shall not advertise that facilities or physical conditions, or both, exist when this is not true.

History: 1954 ACS 98, p. 25, Eff. Feb. 28, 1979.

R 125.2003 Means to assure completion of optional improvements.

Rule 1003. A mobile home park, or a part thereof on which construction of an optional improvement for tenant use or convenience has not been completed, shall not be advertised unless the completion of the optional improvement is assured by substantial completion or the advertising discloses the promised date of completion, or both. If an optional improvement is not completed by the date promised, the bureau may, after notice of opportunity for hearing, require an irrevocable bank letter of credit, bond, or similar undertaking posted with a public authority and acceptable to the bureau, or by adequate reserves established and maintained in a trust escrow account to insure completion of the optional improvement. In determining adequacy of the account, the bureau shall be guided by the facts and circumstances of each individual case, but the account shall comply with the following:

(a) Funds shall be kept and maintained in a separate escrow account.

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(b) The account shall be approved by the bureau and shall be established in a financial institution doing business in this state, or another state where the account is required to be maintained there by the laws of that state.

(c) Monthly progress reports shall be furnished to the bureau and the commission by the park for a new project for the first 6 months and in the bureau's discretion, quarterly or semi-annually thereafter.

(d) The trust or escrow agreement shall state that its purpose is to protect the tenant or prospective tenant in case the park fails to complete construction of promised optional improvements and shall authorize the bureau to inspect the records of the trustee relating thereto.

(e) The bureau, by its director, shall execute an acknowledgment on the face of each agreement. This acknowledgment indicates approval of the form and content of the agreements, but shall not be construed to make the bureau a party thereto.

History: 1954 ACS 98, p. 25, Eff. Feb. 28, 1979.

R 125.2004 Mobile home sales in parks.

Rule 1004. (1) A mobile home park shall not deny a tenant the right to sell his or her mobile home, on site, at a price of his or her own choosing, to any individual, if the purchaser qualifies for tenancy and the mobile home meets the conditions of the written park rules, except that age shall not be used as the sole basis for refusing to allow a mobile home to remain in the park.

(2) A mobile home sold on site shall conform to R 125.1703 pertaining to fire extinguishers and smoke detectors.

(3) Unless licensed as a broker/dealer pursuant to the act, a charge connected to the sale by the park is an entrance or exit fee.

(4) A park may charge a reasonable fee to inspect the home prior to sale. The charge shall not exceed $30.00.

(5) Subrule (1) of this rule does not apply if the mobile home park is changing its method of doing business, which includes, but is not limited to, any of the following:

(a) Conversion to a mobile home park condominium pursuant to Act No. 59 of the Public Acts of 1978, being §§559.101 to 559.272 of the Michigan Compiled Laws.

(b) Converting to total rental of both mobile home site and park-owned mobile home.

(c) A mobile home park owner or operator, or both, has the burden of proof to show compliance with this rule.

History: 1954 ACS 98, p. 28, Eff. Feb. 28, 1979.

R 125.2005 Security deposits; lease; inventory checklists.

Rule 1005. (1) A security deposit received by a park shall be maintained in accordance with the procedures set forth in Act No. 348 of the Public Acts of 1972, being §§554.601 to 554.616 of the Michigan Compiled Laws.

(2) A minimum 6-month lease shall be offered for each mobile home site. If a tenant refuses a lease, the park shall require a written statement of the refusal. A park may offer different terms of tenancy between tenants with a lease and tenants without a lease.

(3) An inventory checklist shall be utilized at the beginning and termination of the tenancy to determine damages. The procedure set forth in Act No. 348 of the Public Acts of 1972, being §§554.601 to 554.616 of the Michigan Compiled Laws shall be complied with.

History: 1954 ACS 98, p. 28, Eff. Feb. 28, 1979.

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R 125.2006 Mobile home park rules; rent charges.

Rule 1006. (1) The park management shall provide each prospective and existing tenant with a copy of the park rules. A written receipt for the rules shall be executed by the tenant.

(2) Changes to the park rules shall be posted at a conspicuous place in the park office and shall be given to each tenant, at a minimum, and displayed conspicuously at other convenient locations, if possible, not less than 30 days before the date on which the changes become effective.

(3) If proposed rules are altered or changed within 10 days after the changes to the park rules are effective, a copy shall be furnished to each tenant.

(4) The park shall post in a conspicuous place in the park office a detailed list of current rent ranges, a detailed list of any other charges that are added to the base rent which would establish the monthly rental a tenant is to pay, and the following statement for resolving complaints under the act:

Under the mobile home commission act you have the right to file a valid complaint that pertains to violations of that act or rules published under the act. Before a complaint can be filed under this act or these rules, you must notify the park, dealer, broker, or installer/repairer in writing that a problem exists. If they do not provide a reasonable response within 15 days of receipt of your complaint, you may file a complaint with the Michigan Department of Commerce, Corporations and Securities Bureau, Mobile Home Section, P.O. Box 30222, Lansing, Michigan 48909. Please note that only violations pertaining to the mobile home commission act or these rules can be accepted by the mobile home section. Complaints pertaining to mobile home park rent costs do not fall under the authority of the act.

History: 1954 ACS 98, p. 26, Eff. Feb. 28, 1979; 1954 ACS 100, p. 55, Eff. Sept. 5, 1979.

R 125.2006a Tenant-provided utility service.

Rule 1006a. If a mobile home park tenant provides any utility service that results in common park use, such as park lighting, and that tenant is directly charged for that service by a public or park-owned utility, the park shall disclose the charge to all affected tenants.

History: 1954 ACS 100, p. 56, Eff. Sept. 5, 1979.

R 125.2007 Accounts and records.

Rule 1007. (1) In addition to other accounts and records required by law, the park shall maintain the following accounts and records at the park office or at a central office:

(a) A copy of the lease for each tenant, or a copy of the statement of refusal signed by the tenant.

(b) A copy of the inventory checklists for each tenant.

(c) A copy of the tenant receipt for park rules.

(d) A record of the rent receipts for each tenant.

(e) A record of all specific tax payments and receipts.

(f) A record of the playground equipment inspections.

(g) A copy of each written complaint received.

(2) All accounts and records required by these rules shall be available for inspection by an authorized representative of the bureau during normal business hours.

(3) Unless otherwise provided for by law, these or other rules, or local ordinances which require a longer retention period, the following accounts and records shall be maintained pursuant to the following schedule of retention:

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(a) Three years:

(i) The record of rent receipts.

(ii) The record of the playground equipment inspection.

(iii) A copy of each written complaint received.

(iv) The record of specific tax payments or receipts.

(b) Three years after tenancy termination:

(i) The copy of the lease for each tenant, or the copy of the statement of refusal signed by the tenant.

(ii) The copy of the inventory checklist for each tenant.

(iii) The copy of the tenant's receipt for park rules.

History: 1954 ACS 98, p. 26, Eff. Feb. 28, 1979; 1954 ACS 100, p. 56, Eff. Sept. 5, 1979.

R 125.2008 Mobile home parks constructed pursuant to previous acts.

Rule 1008. (1) A mobile home park, as defined in the act, that was licensed under the construction standards of previous acts, and the license was legally issued and valid at the time these rules take effect, is not required to fulfill all the requirements pertaining to park construction pursuant to these rules. However, at a minimum, all existing mobile home parks shall, within 1 year after issuance of a license under the act, conform to the following:

(a) A mobile home park shall be adequately lighted during darkness.

(b) The installation of individual mobile home site meters shall be pursuant to R 125.1932, R 125.1934, R 125.1935, and R 125.1937.

(c) Meters which are owned by the park shall be calibrated pursuant to R 125.1938.

(2) An existing mobile home park licensed under the act or previous acts that expands shall conform to all the requirements pertaining to park construction in these rules for all expansions.

History: 1954 ACS 98, p. 27, Eff. Feb. 28, 1979.

R 125.2009 Mobile home park owner or operator; prohibited practices.

Rule 1009. A mobile home park owner or operator shall not aid or abet an unlicensed person to evade the provisions of the act or these rules, or knowingly combine or conspire with, or act as an agent, partner, or associate for an unlicensed person, or allow one's license to be used by an unlicensed person, or act as or be an apparent licensed mobile home dealer, or broker, for undisclosed persons who do or will control or direct, or who may have the right to control or direct, directly or indirectly, the business operations or performance, or both, of the licensee.

History: 1954 ACS 98, p. 27, Eff. Feb. 28, 1979.

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DEPARTMENT OF TREASURY

MUNICIPAL FINANCE COMMISSION

BONDS

(By authority of section 2, chapter 2, of Act No. 202 of the Public Acts of 1943, being §132.2 of the Michigan Compiled Laws)

R 132.1 Applications for issuance of bonds or for notice of sale of bonds; filing; actions.

Rule 1. (1) The commission will not act upon applications made for its approval for the issuance of bonds or for the notice of sale of bonds until completed applications, including certified copies of all supporting ordinances and resolutions relating to the obligations proposed and for which its permission to issue is sought, shall have been filed with it as follows:

(a) Seven days in case of requested permission for the issuance of or for the approval of a notice of sale of any bonds except refunding bonds, revenue bonds or revenue refunding bonds.

(b) Ten days in the case of requested permission for the issuance of or for the approval of a notice of sale of refunding bonds, except revenue refunding bonds.

(c) Twenty days in the case of requested permission for the issuance of or for the approval of a notice of sale of revenue or revenue refunding bonds.

(d) In the event any resolution or ordinance relative to revenue bonds, or revenue refunding bonds, proposed to be issued, including those relating to notices of sale thereof, shall be amended while an application is pending before the commission, or before it shall have finally acted thereon, final action will not be taken by the commission until certified copies of such amendatory resolutions or ordinances shall have been on file with it for a period of 5 days.

(2) In computing the number of days an application or other paper shall have been on file with the commission, the day of its receipt in the office of the commission and the day upon which the commission acts shall not be counted.

History: 1944 AC, p. 473; 1944 ACS 6, p. 58; 1944 ACS 12, p. 28; 1944 ACS 25, p. 14; 1954 AC, p. 801.

HEARINGS

(By authority of Act No. 197 of the Public Acts of 1952, as amended, being §24.101 et seq. of the Michigan Compiled Laws)

R 132.101 Notice of grievance; service.

Rule 1. If any municipality shall feel aggrieved at any order of the commission, the governing body of such municipality shall cause a notice thereof to be served on the commission as hereinafter provided. Such notice shall state the reasons for the municipality being so aggrieved and the issues involved. A certified copy of the resolution of the governing body of the municipality setting forth the said reasons and issues may constitute notice hereunder. Such notice shall be served on the commission either by giving a certified copy thereof personally to any member of the commission at Lansing, Michigan, or by mail addressed to the commission.

History: 1954 ACS 4, p. 5, Eff. Dec. 23, 1955.

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R 132.102 Notice of hearing by commission; adjournments.

Rule 2. Notification by the municipal finance commission of any hearing before it shall be addressed to the officer certifying the notice of the municipality, or to counsel for the municipality, as directed in its notice, and shall be mailed at least 7 days prior to the date of the hearing. Such hearings may be adjourned from time to time as provided in Act No. 202, Public Acts of 1943, as amended, and notice of any adjourned hearing shall be mailed to the officer of the municipality as above provided at least 3 days before such adjourned hearing. Unless otherwise indicated, all hearings will be held in the office of the municipal finance commission at Lansing, Michigan, or any other place in the capitol selected by the commission. Any party may request an adjournment of a hearing, for cause shown, by filing such request in writing with the secretary of the commission at least 6 days prior to the hearing or any adjournment thereof.

History: 1954 ACS 4, p. 5, Eff. Dec. 23, 1955.

R 132.103 Appearances.

Rule 3. When an appearance is made at a hearing, it shall be made by a duly authorized representative or by counsel.

History: 1954 ACS 4, p. 5, Eff. Dec. 23, 1955.

R 132.104 Statement of facts.

Rule 4. When any municipality feeling aggrieved at any order of the commission shall serve a notice thereof on the commission as hereinbefore provided, the municipality shall submit in writing therewith a fair and accurate statement of the facts on which it bases its notice of being aggrieved.

History: 1954 ACS 4, p. 5, Eff. Dec. 23, 1955.

R 132.105 Briefs.

Rule 5. The commission or any member thereof, either before, during or after the hearing, may request that briefs be filed and may designate the manner and time of filing and serving the same. An original and 5 copies shall be filed with the commission.

History: 1954 ACS 4, p. 5, Eff. Dec. 23, 1955.

R 132.106 Depositions.

Rule 6. Depositions shall only be taken upon written authority of the commission where it is shown in writing to the commission that it is impractical or impossible to otherwise obtain the evidence. Where depositions are permitted, they shall be taken according to the rules for taking depositions in civil cases in the state of Michigan, being §§617.6 to 617.15 of the Michigan Compiled Laws, with all parties given an opportunity to cross-examine the witness under oath.

History: 1954 ACS 4, p. 5, Eff. Dec. 23, 1955.

R 132.107 Stenographic report.

Rule 7. The testimony at any hearing before the commission shall be taken stenographically and any party may obtain a copy by payment of the cost hereof.

History: 1954 ACS 4, p. 5, Eff. Dec. 23, 1955.

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DEPARTMENT OF STATE

ELECTIONS DIVISION

ELECTRONIC VOTING SYSTEMS

(By authority conferred on the secretary of state by section 794c of Act No. 116 of the Public Acts of 1954, being §168.794c of the Michigan Compiled Laws)

R 168.771 Definitions.

Rule 1. (1) As used in these rules:

(a) "Absent voter ballot card" means a ballot card attached to a backing that aids a voter to punch out the scored positions on the ballot card.

(b) "Accuracy test" means a test conducted to determine that the program and the computer being used to tabulate the results of the election count the votes in the manner prescribed by the act.

(c) "Act" means Act No. 116 of the Public Acts of 1954, as amended, being §168.1 et seq. of the Michigan Compiled Laws, and known as the Michigan election law.

(d) "Approved computer" means a manufacturer model which has been approved by the board of state canvassers to tabulate ballot cards in this state.

(e) "Ballot card" means a data processing card approved by the board of state canvassers.

(f) "Ballot label assembly" means the assembled unit containing ballot labels and mask.

(g) "Certifying board" means a board consisting of not less than 2 members of differing political party preference which certifies the precinct results on election night.

(h) "Chad" means the scored rectangular portion of the ballot card which is punched out of the ballot card by the voter when casting a vote.

(i) "Combination ballot card and write-in ballot" means a ballot card with a separate card attached to it by perforation and which contains instructions and spaces for write-ins. The write-in portion shall be of a size other than that of the ballot card.

(j) "Computer" means 1 or more pieces of automatic tabulating equipment which examines, tabulates, and counts votes recorded on ballot cards or magnetic tapes and prints results.

(k) "Console log" means a listing of the computer responses to program instructions and of instructions to the computer by the operator.

(l) "Correction tape" means a tape designed solely for use in correcting errors on data processing cards.

(m) "Demonstration ballot card" means a ballot card of a distinctive color used to instruct voters on the use of the voting device. The card shall have the word "DEMONSTRATION" printed or stamped on it.

(n) "Demonstrator model" means a voting device on which voters are instructed in the use of the device.

(o) "Duplicate ballot card" means a ballot card on which the word "DUPLICATE" is printed, stamped, or written and which is used to transfer a voter's valid selections from the original ballot card.

(p) "Edit listing" means a listing showing the names, rotation sequence, and ballot position numbers for each candidate and proposal as they appear in the program for each precinct.

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(q) "End card" means a data processing card which instructs the computer that all ballots of a precinct have been counted.

(r) "Header card" means a data processing card which contains the necessary data to identify a precinct to the computer. A header card may be an end card for the preceding precinct.

(s) "Mask" means a piece of material with defined areas for each voting position, into which holes are punched corresponding only to the voting positions appearing on the ballot label.

(t) "Overvote" means a combination of votes, including write-in votes, which exceeds the number for which the elector is entitled to vote.

(u) "Program" means the operating instructions for a computer by which it examines, counts, tabulates, and prints the results of the votes cast on a ballot card.

(v) "Receiving board" means a board consisting of not less than 2 members of differing political party preference which receives the sealed transfer case from the precinct election inspectors.

(w) "Receiving station" means a site which is located at a building or place other than where the counting center is located.

(x) "Self-contained voting station" means a unit containing a voting device having curtains on not less than 3 sides and which, when assembled, creates an individual voting station.

(y) "Specialized computer" means automatic tabulating equipment constructed primarily for the purpose of tabulating ballots and printing results.

(z) "Spoiled ballot" means a ballot card which has been returned by a voter and for which a new ballot card has been issued.

(aa) "Template" means a piece of material containing precisely located holes, conical in shape and positioned so that a stylus tip can penetrate only the scored areas of the ballot card.

(bb) "Transfer case" means a metal container used for transporting and storing voted ballot cards. The container shall be capable of being sealed with a metal seal and be approved in the manner ballot boxes are approved pursuant to section 24j of the act.

(cc) "Valid punch" means a punch of a ballot card such that the chad is completely removed or is hanging by 1 or 2 corners.

(2) A term defined in the act has the same meaning when used in these rules.

History: 1954 ACS 96, p. 27, Eff. Aug. 8, 1978.

R 168.772 General provisions.

Rule 2. (1) The paper ballot procedures in the act shall be applicable in elections in which electronic voting systems are used, except where superseded by specific provisions of the act or these rules.

(2) A precinct in which electronic voting systems are used shall not contain more than the number of registered voters permitted by the act in a precinct using voting machines.

(3) Where the board of county commissioners provides for the purchase and use of an electronic voting system in a county, the county clerk shall have custody of the devices and be responsible for their maintenance, repair, and preparation for elections.

(4) Where the legislative body of a city, township, or village provides for the purchase and use of an electronic voting system, the clerk of the city, township, or village shall have custody of the devices and be responsible for their maintenance, repair, and preparation for elections.

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(5) If a county owns the voting devices and the election is an election at which state or county offices or proposals are to be voted upon, or an election at which state, county, and local offices are to be voted upon, the county election commission shall provide programming and computer time and furnish the necessary supplies, including printing.

(6) If a county owns the voting devices and the election is an election at which only local offices and proposals are to be voted upon, the county election commission shall provide programming and computer time and furnish the necessary supplies, including printing, and the local unit shall reimburse the county for the costs of the supplies; or the local unit may agree with the county that the local unit shall perform the functions required by this rule to be performed by the county.

(7) If a city or township owns the voting devices and the election is an election at which state or county offices or proposals are to be voted upon, or an election at which state, county, and local offices and proposals are to be voted upon, the city election commission shall provide the devices, programming, and computer time, and the county election commission shall provide ballot cards, ballot envelopes, and the printing of the ballot labels. A city or township and a county may enter into a mutual agreement that the county shall provide programming or computer time, or both.

(8) If a city or township owns the voting devices and the election is an election at which only local offices and proposals are to be voted upon, the city or township election commission shall provide the devices, programming, computer time, ballot cards, ballot envelopes, and the printing of ballot labels. A city or township and a county may enter into a mutual agreement that the county shall provide programming or computer time, or both.

(9) A village or school district may contract with a city, county, or township for the use of voting devices, programming, and computer time.

(10) Notwithstanding any other provision of these rules, the election commissions of local units of government may enter into a mutual agreement for the joint use of a program and computer. The agreement shall state which local unit has control of the programs and computer. An agreement may be made with the county election commission stating control of the program and computer shall be vested in the county clerk.

(11) For the purpose of these rules, when a school election is conducted and the school district is supplying the program, the term "election commission" means the secretary and president of the school board and the superintendent of the school district.

History: 1954 ACS 96, p. 28, Eff. Aug. 8, 1978.

R 168.773 Preparation of program.

Rule 3. (1) A program shall be written so as to accurately tabulate a voter's choices for each candidate, office, and measure for which the voter is lawfully entitled to vote, in conformity with the act and these rules.

(2) A program shall include an instruction requiring that 2 identical header cards precede the deck of ballot cards for each precinct. The program shall provide that if 2 identical header cards do not appear in front of the ballot cards of a precinct, the counting of ballots for that precinct shall not take place. In programs to be used on a specialized computer, 1 header card is required, unless the function of the header card is performed by the program.

(3) An end card shall follow the ballots of each precinct. The program may provide that if a header card contains instructions to the computer that all ballots

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of the preceding precinct have been counted, a separate end card is not required. In a program to be used in a specialized computer, an end card is not required.

(4) A program may be maintained by a generally accepted method, within the computer industry, of input or output or a combination of methods.

(5) Two edit listings shall be prepared and, not less than 3 days before the preliminary accuracy test, shall be delivered to the election commission responsible for supplying the program.

(6) The election commission responsible for supplying the program shall provide necessary information to the person or company designated to write or prepare the program.

(7) The program for an election and a duplicate copy shall be completed and delivered to the election commission responsible for supplying the program not less than 3 days before the preliminary accuracy test. A duplicate is not required where a specialized computer is used.

(8) If a program is written to be used on a general purpose computer, the person or company providing the program shall, at the time the program is delivered, submit to the election commission a certificate stating that the program was prepared from all relevant input data, describing the procedures which were used to determine its accuracy, and stating that the program has been written pursuant to the act and these rules.

(9) The person preparing the program shall submit to the election commission responsible for supplying the program instructions containing the information and procedures required to operate the program. The election commission shall make the instructions available to the computer operators.

(10) The vote tabulation portion of the program shall be written:

(a) To reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballot labels in the various precincts.

(b) To count valid votes cast by a voter for candidates for an office.

(c) To count valid votes cast by a voter for or against any question.

(d) So as not to count votes cast by a voter for an office or question if the number of votes cast by a voter exceeds the number which the voter is entitled to vote for on that office or question.

(e) To ignore punches in a ballot card in positions where a candidate's name or questions do not appear on the official ballot. These punches shall not have an effect on the ballot.

(f) So that the partisan, nonpartisan, and proposal sections of the ballot are considered separate sections of the ballot. The action of a voter in 1 section of the ballot shall not affect the voter's action on another section of the ballot.

(11) For a partisan primary election, the vote tabulation section of the program shall be written:

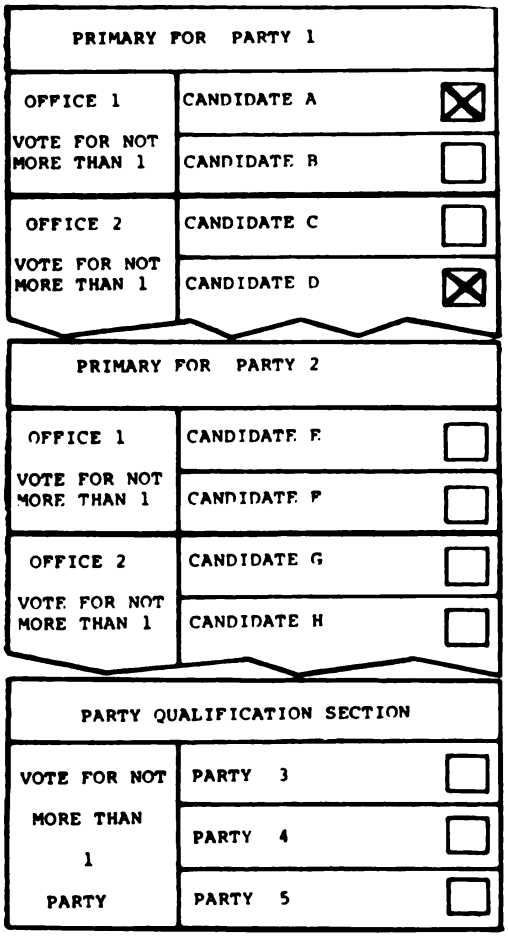
(a) To determine if a voter has cast votes for candidates of more than 1 political party.

(b) To determine if a voter has cast votes for a candidate of 1 or more political parties and a vote in the "party qualification section" of the ballot.

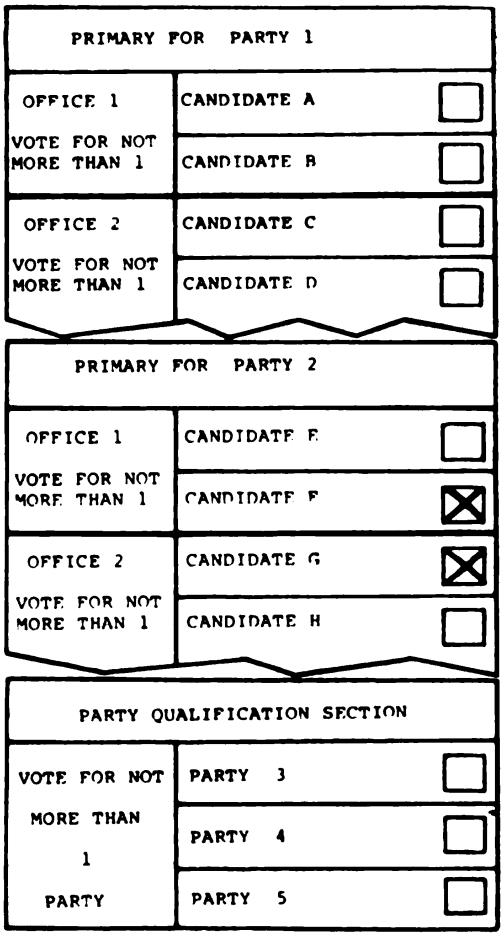
(c) To count the votes when they are recorded by a voter for candidates of 1 political party only where a vote is not recorded in the "party qualification section" of the ballot; or to count the vote when it is recorded by the voter for 1 selection only in the "party qualification section" of the ballot and where a vote is not recorded for 1 or more partisan candidates, as in examples 1, 2, 3, and 4.

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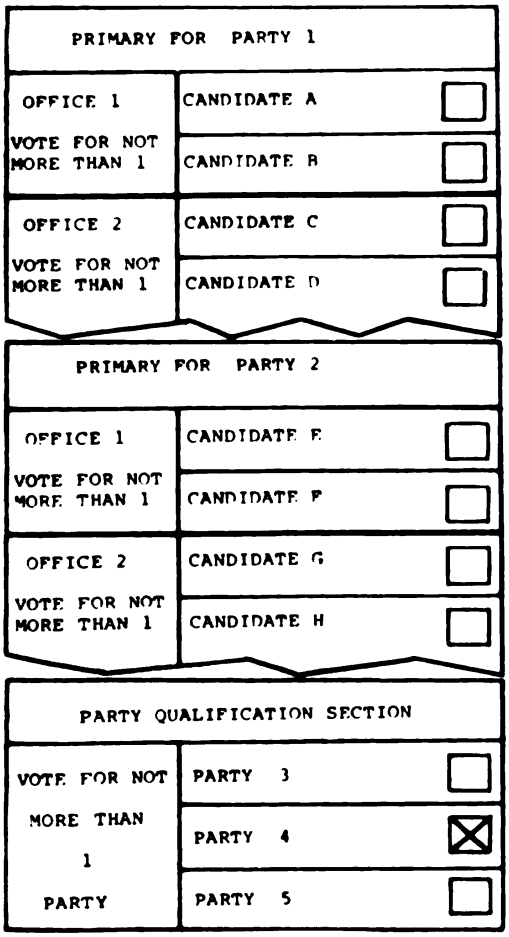


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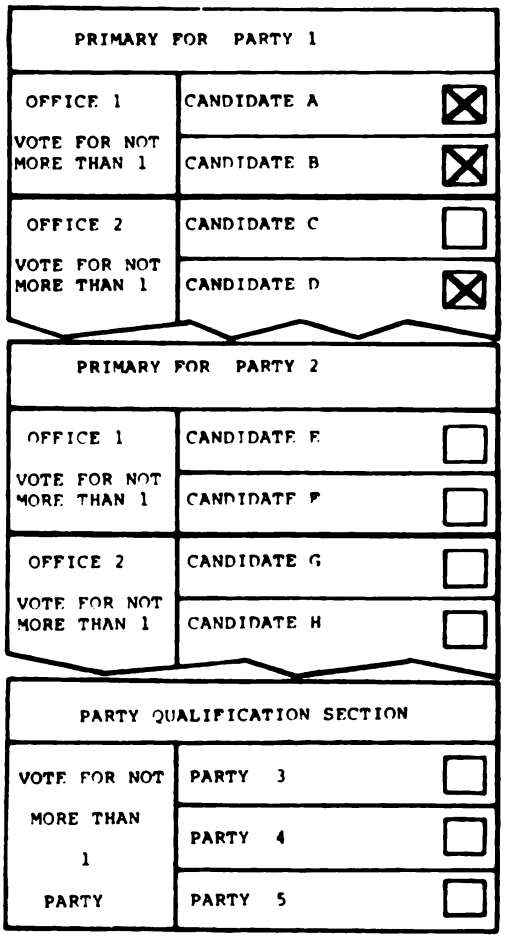


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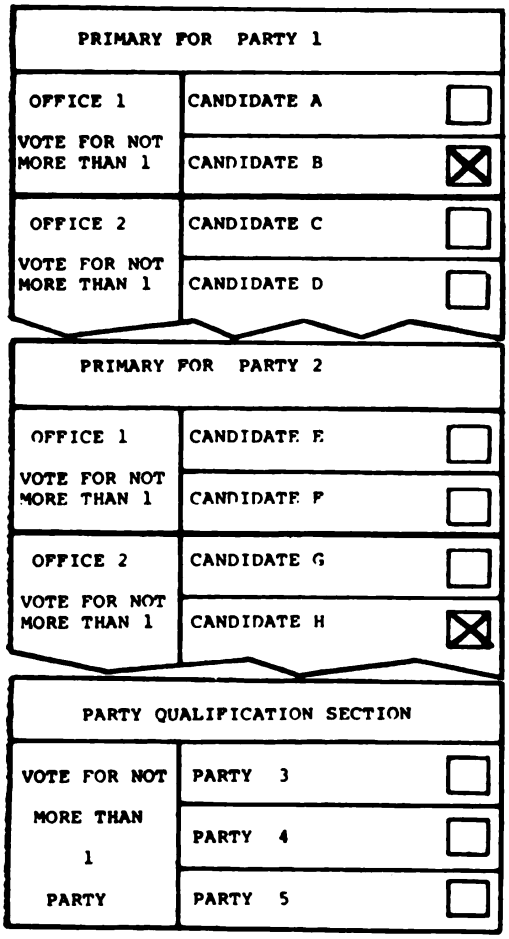


Example 1: Count a vote for candidates A and D.
Example 2: Count a vote for candidates F and G.
Example 3: Count a vote for party 4.
Example 4: Count a vote for candidate D.

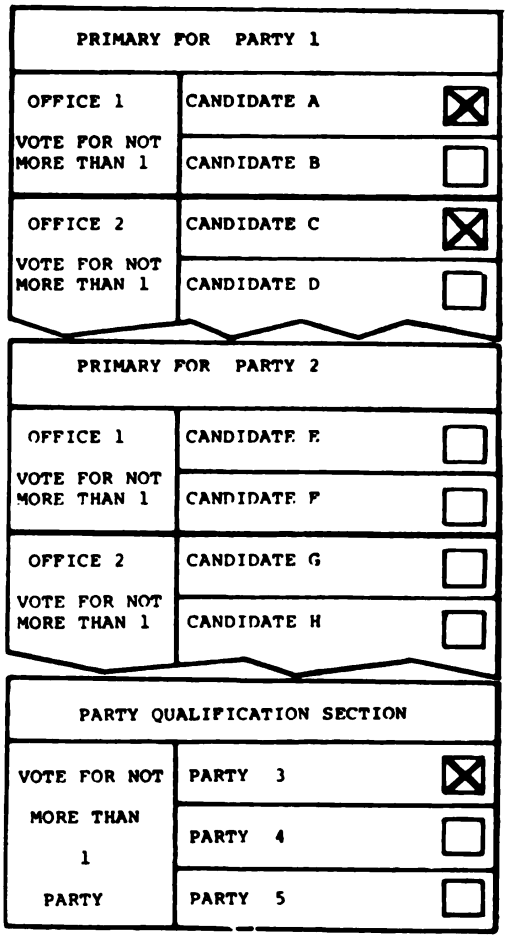
(d) To reject all votes cast in the partisan section of the ballot and the "party qualification section" of the ballot if votes are cast for candidates of more than 1 political party; or if votes are cast for candidates of 1 or more political parties and 1 or more votes are cast in the "party qualification section" of the ballot; or if more than 1 vote is cast in the "party qualification section" of the ballot, as in examples 5, 6, 7, 8, and 9.

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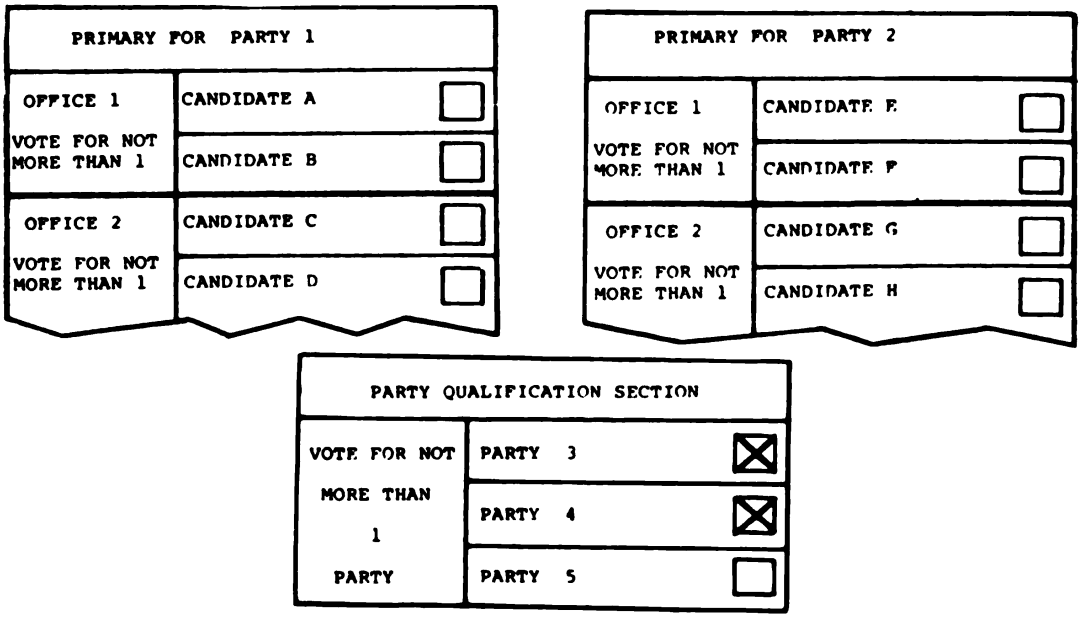
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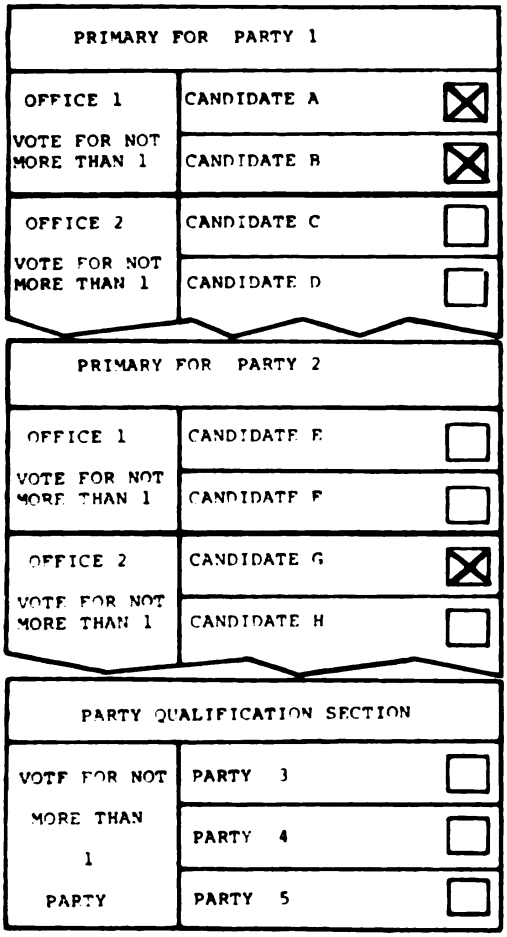


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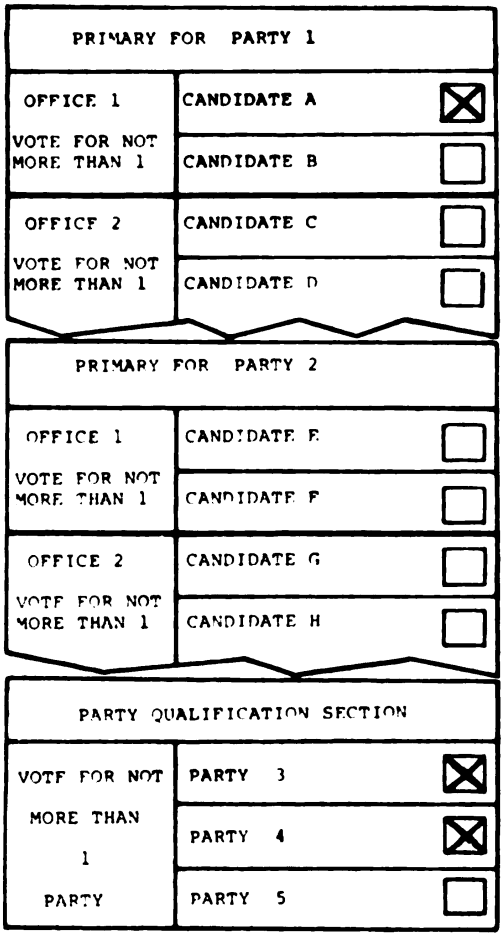


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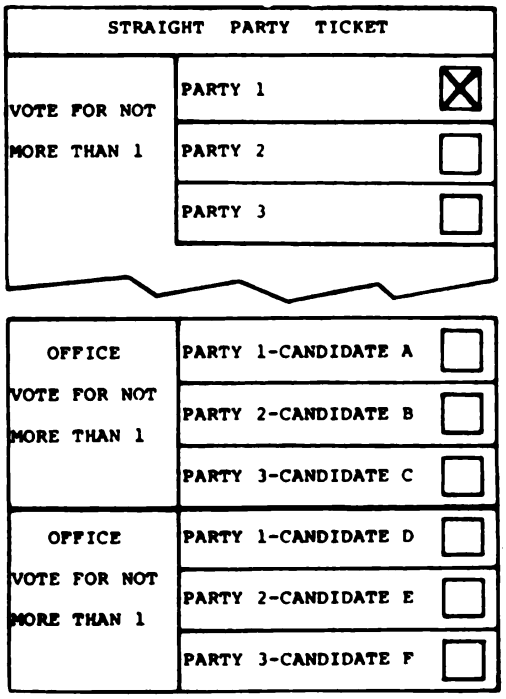
Example 5: Count no votes.
Example 6: Count no votes.
Example 7: Count no votes.
Example 8: Count no votes.
Example 9: Count no votes.

(12) For a partisan general election, the vote tabulation section of the program shall be written as follows:

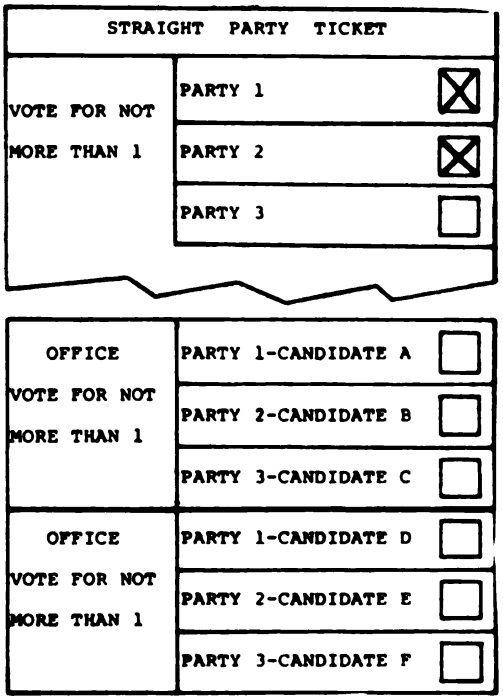
(a) A vote shall be counted for each candidate of the political party indicated by the voter's straight ticket vote, if any other vote does not appear on the partisan portion of the ballot, as in example 10.

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(11)



Example 10: Count a vote for candidates A and D.

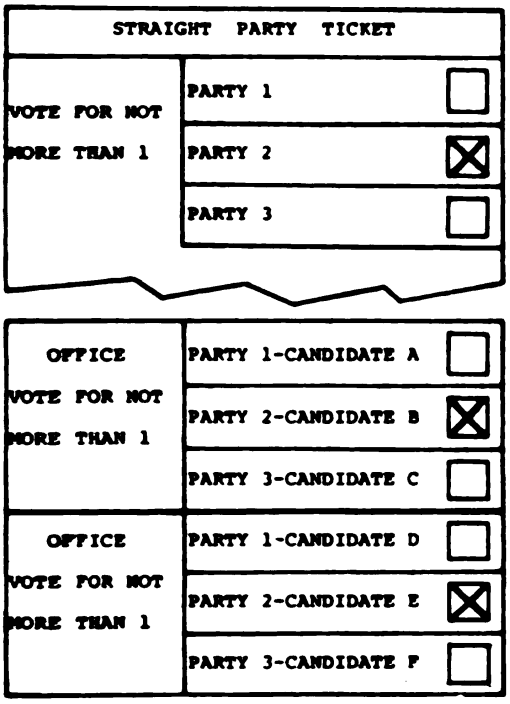
(b) A vote shall not be counted if the voter has voted more than 1 straight ticket vote and another vote does not appear on the partisan section of the ballot, as in example 11.

Example 11: Do not count a vote for candidates of any party.

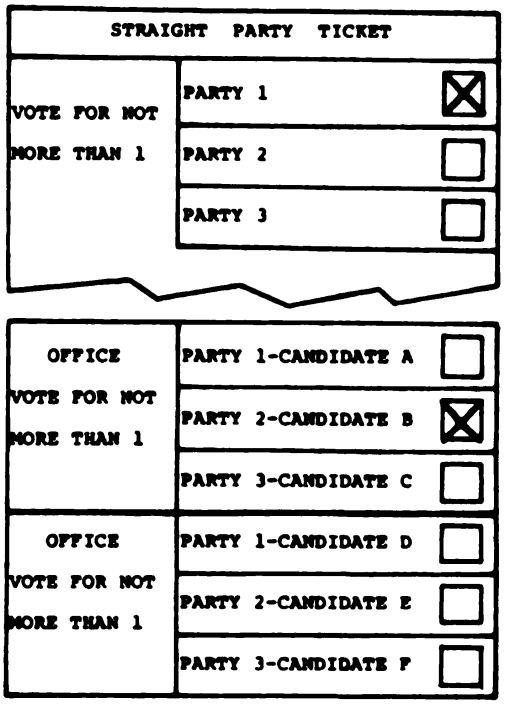
(c) When only 1 candidate is to be elected to an office and the voter has voted a straight party ticket and voted for individual candidates, a vote shall be counted for each of the individual candidates voted for, and for each candidate of the party for which the straight party vote was voted and individual votes for candidates of other parties were not voted, as in examples 12 and 13.

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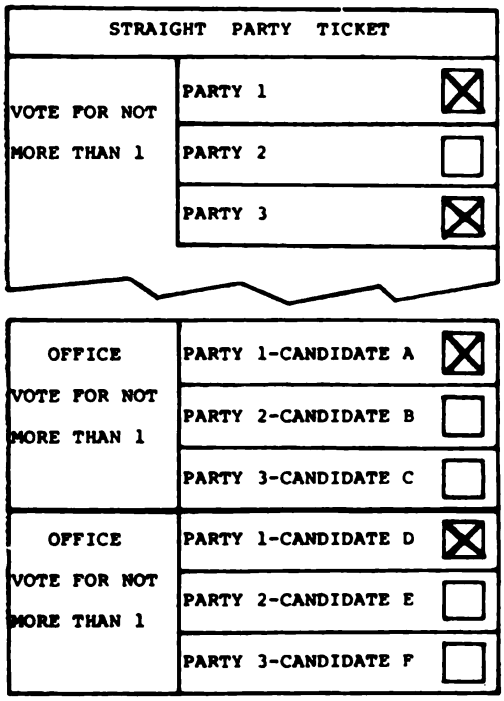


Example 12: Count a vote for candidates B and E.
Example 13: Count a vote for candidates B and D.

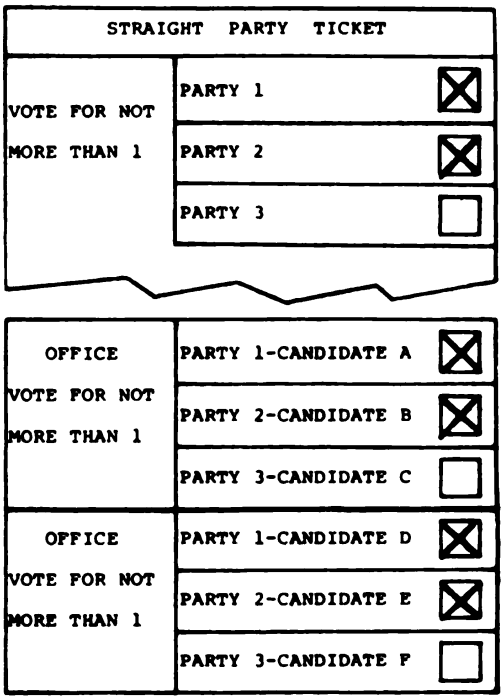
(d) When 1 or more candidates are to be elected to an office and the voter has voted 2 or more straight party tickets and the individual votes for partisan candidates, a vote shall be counted for each individual candidate voted for when the number of votes for that office does not exceed the number for which the voter is entitled to vote, as in examples 14, 15, and 16.

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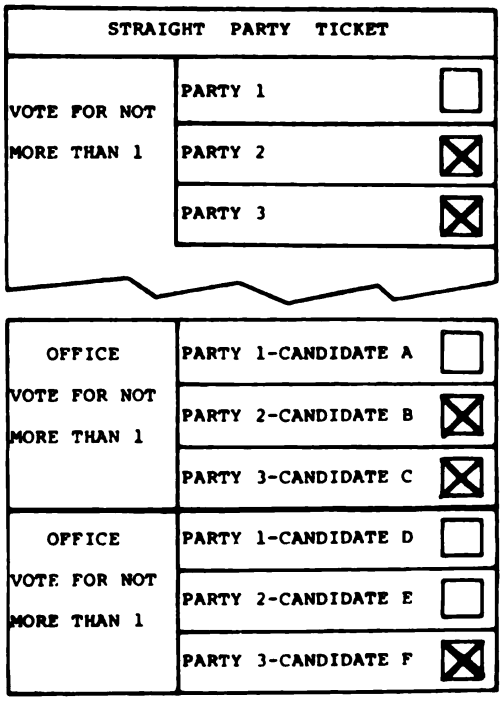
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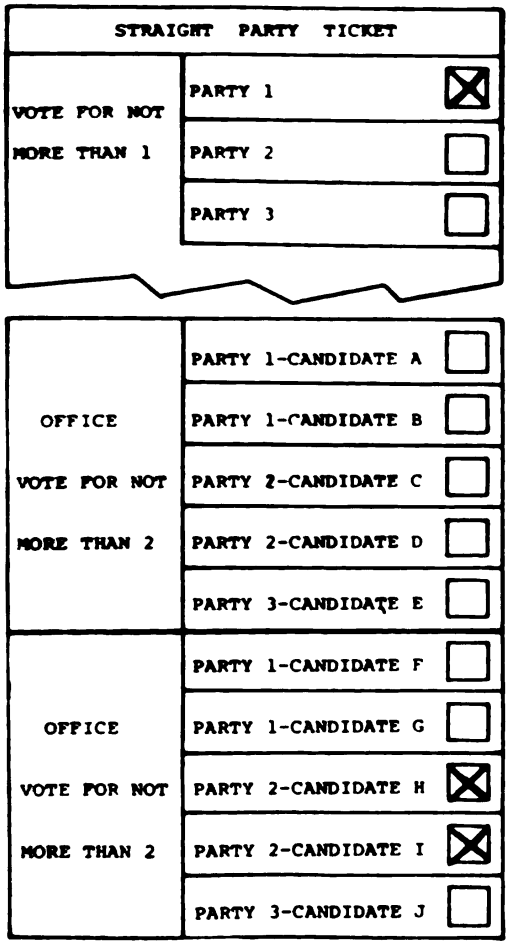


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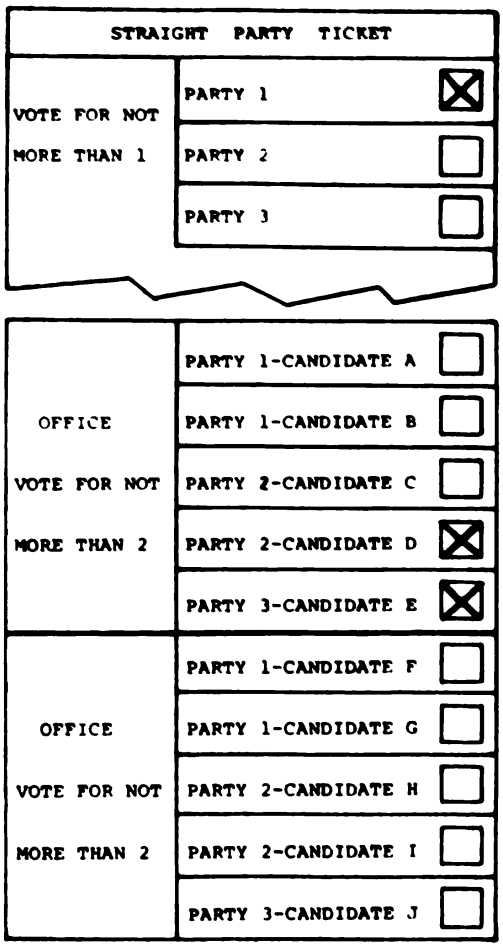
Example 14: Count a vote for candidates A and D.
Example 15: Do not count a vote for candidates of any party.
Example 16: Count a vote for candidate F.

(e) When 2 partisan candidates are to be elected to the same office and the voter has voted a straight party ticket for 1 political party and has voted individually for 2 candidates of a different political party for that office, a vote shall be counted for each of the candidates for whom the individual votes were voted, but votes shall not be counted for the candidates of the party indicated by the voter's straight party selection for that office, as in examples 17, 18, and 19.

(17)

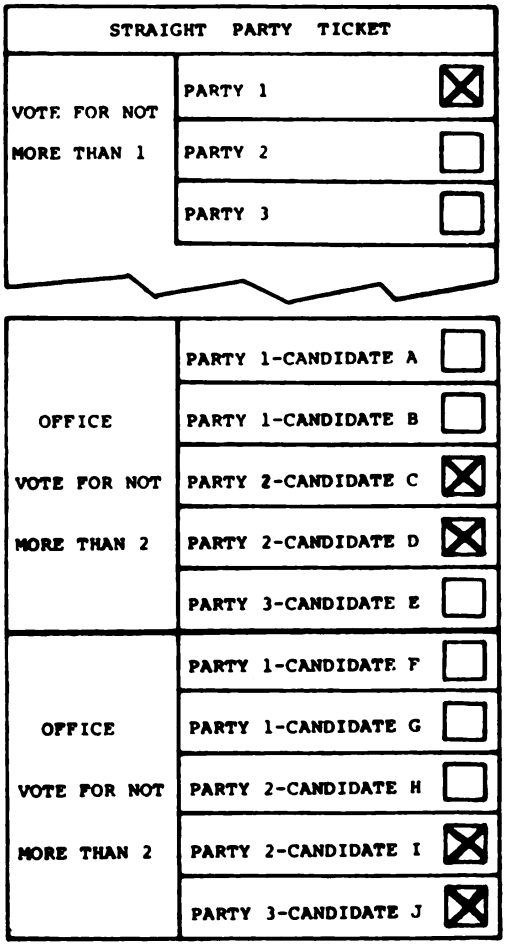


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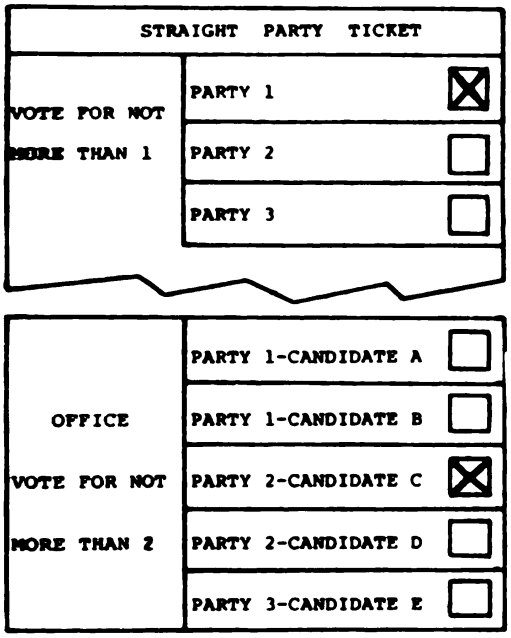


Example 17: Count a vote for candidates A, B, H, and I.
Example 18: Count a vote for candidates D, E, F, and G.
Example 19: Count a vote for candidates C, D, I, and J.

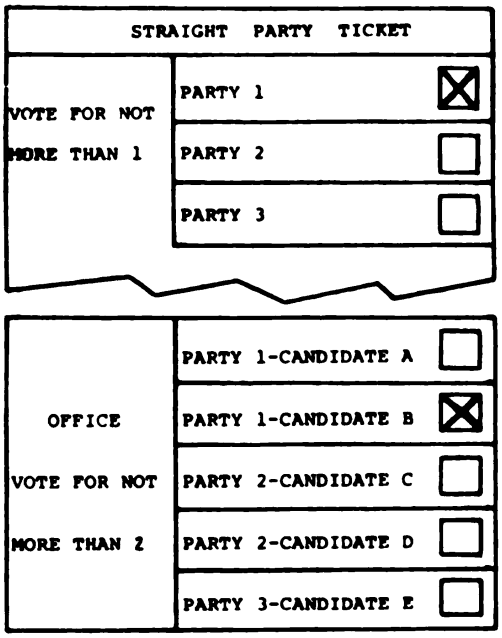
(f) When 2 partisan candidates are to be elected to the same office and the voter has voted a straight party ticket for 1 political party and that party has 2 candidates for that office, and the voter has voted an individual vote for 1 candidate for that office in a different political party, a vote shall be counted only for the candidate for whom the individual vote was made. Under these conditions, a vote shall not be counted for a candidate for that office by virtue of the voter's straight party selection, as in examples 20, 21, 22, and 23.

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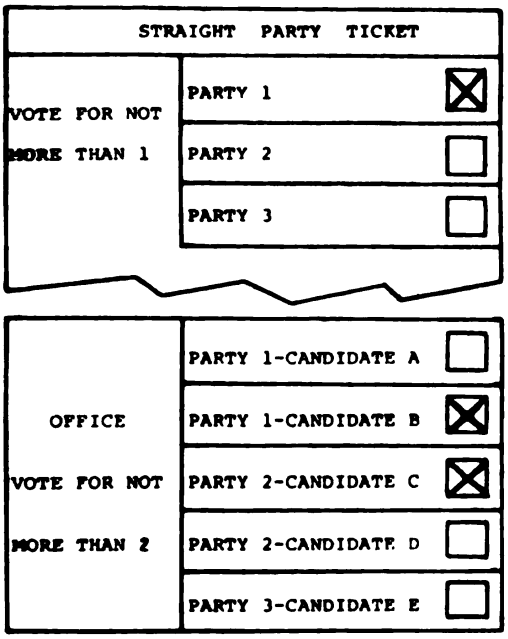
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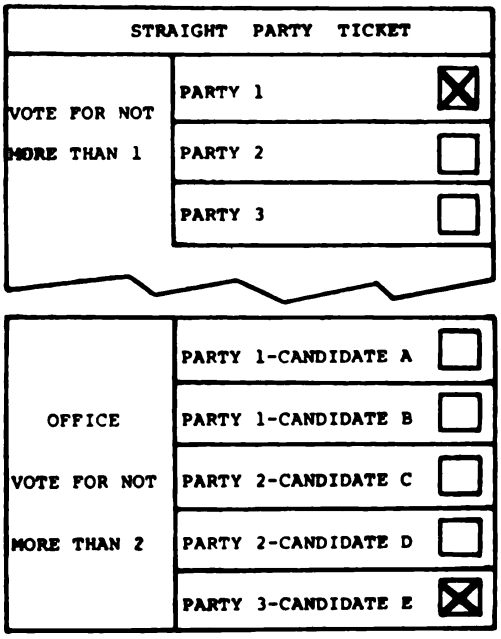
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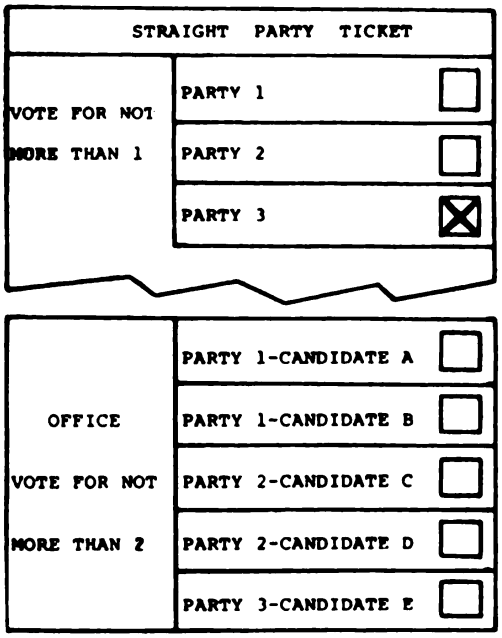


Example 20: Count a vote for candidate C only.
Example 21: Count a vote for candidates A and B.
Example 22: Count a vote for candidates B and C.
Example 23: Count a vote for candidate E only.

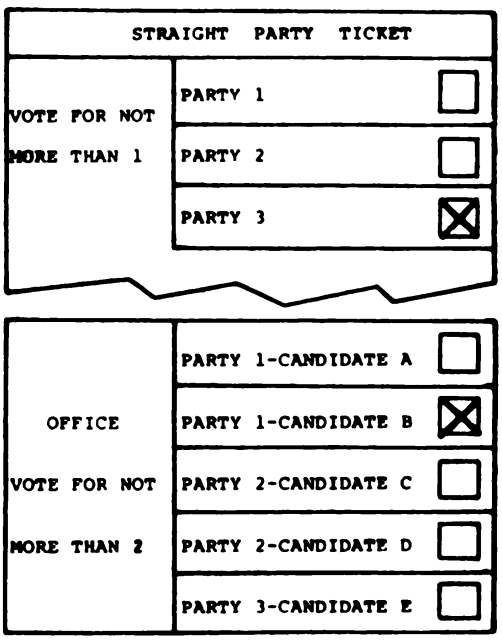
(g) When 2 partisan candidates are to be elected to the same office and the voter has voted a straight party ticket for 1 political party and that party has only 1 candidate for that office, a vote shall be counted for the party candidate for that office as in example 24, and if the voter has voted for a candidate of a different political party for that office, that vote shall be counted, as in example 25.

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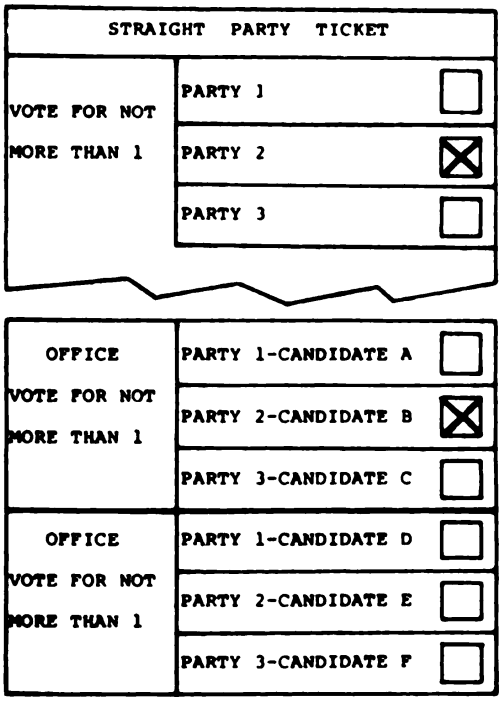
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Example 24: Count a vote for candidate E.
Example 25: Count a vote for candidates B and E.

(h) When a voter has voted a straight party ticket for a political party and has voted individual votes for members of that party only, a vote shall be counted for each candidate of that party. These conditions do not constitute an overvote, as in example 26.

(26)



Example 26: Count a vote for B and E.

History: 1954 ACS 96, p. 29, Eff. Aug. 8, 1978.

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R 168.774 Preparation of ballots and ballot labels.

Rule 4. (1) On a ballot card used after the effective date of these rules, the words "OFFICIAL BALLOT CARD" shall be printed on the face of the detachable stub. The ballot card shall have a corner cut on 1 corner.

(2) The following statement shall be printed or stamped on the back of the stub on official ballot cards in boldface capital letters:

STOP
WRONG SIDE
TURN CARD OVER

(3) The precinct or absent voter counting board number shall be printed, stamped, written, or punched on each ballot card used in an election to designate the precinct or county board from which it originated.

(4) A combination ballot card and write-in ballot to be used in an election shall be approved by the board of state canvassers.

(5) A ballot envelope to be used in an election shall be approved by the board of state canvassers and shall satisfy all of the following requirements:

(a) Be made of paper of a sufficient size, weight, and design to preserve the secrecy of the ballot card.

(b) Have an inner pocket into which the ballot card may be inserted.

(c) Display printed instructions as to the method of inserting the ballot card after voting, and if the ballot envelope is to be used for write-ins, shall display instructions and space for casting a write-in vote.

(6) The number of ballot cards and envelopes required to be printed and distributed to each precinct shall:

(a) For the general election, be a number equal to the number of registered voters as of the close of registration.

(b) For a primary election, be not less than a number equal to the total number of votes cast in the most recent corresponding primary election plus 25%.

(c) For a special or local election, be a number determined by the local clerk.

(7) A question, proposal, or proposition shall be placed last on the ballot label following the names of candidates and shall be placed in the following order: state, county, local. An exemption from this requirement may be obtained prior to the election from the secretary of state in writing.

(8) For a general election, the name of the party which a candidate represents shall be printed along with the name of the candidate.

(9) The names of candidates on ballot labels shall be rotated as follows:

(a) For a primary election, the names under each office shall be rotated when there are more names than there are candidates to be nominated for office.

(b) For a general election, the names of partisan candidates under the title of each office shall not be rotated.

(c) In any election, the names of nonpartisan candidates shall be rotated when there are more names than there are candidates to be elected for the office.

(d) Rotation shall be by precinct in the manner provided by law for voting machines.

(e) Rotation shall be throughout the local unit of government preparing the labels.

(f) When absent voter ballots are to be processed in the precinct, the rotation shall be the same as in that precinct.

(g) When absent voter ballot cards are to be processed by an absent voter counting board, the rotation may be either by precinct using each absent voter counting board as a separate precinct, or by individual ballot in the same manner

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as paper ballots. In the latter instance, the punch number assigned to a candidate which corresponds to the respective position number on the ballot card shall be rotated with the candidate's name.

(10) Voting instructions shall be printed on the first page of the ballot label. The ballot label shall contain instructions as to where the voter is to continue voting. Additional instructions which conform with the act may be printed on the ballot label.

(11) Absent voter instruction ballots which are used in conjunction with a ballot card shall be printed in plain, clear type and contain instructions for voting. There shall be printed in boldface type alongside each candidate's name and the choice for each measure, a number which corresponds to the respective position number on the ballot card. The words "ABSENT VOTER INSTRUCTION BALLOT" shall appear at the head of the absent voter instruction ballot. An absent voter instruction ballot may be a facsimile of the ballot label used in the absent voter's precinct. Arrows placed on the ballot labels may be omitted from the absent voter instruction ballot.

(12) When a state office or question appears on the ballot, the county election commission shall forward to the secretary of state for approval 2 copies of an instruction ballot or ballot label, 2 copies of an absent voter instruction ballot including all instructions forwarded to absent voters, 2 copies of a ballot card, and 2 copies of a ballot envelope.

History: 1954 ACS 98, p. 40, Eff. Aug. 8, 1978.

R 168.775 Preparation of voting device.

Rule 5. (1) The clerk or an authorized assistant shall prepare each voting device pursuant to the provisions of the act and these rules.

(2) A voting device shall be identified with the precinct number in which it shall be used.

(3) A ballot label page used in the voting device shall be firmly attached for insertion and positioning in the ballot frame. A person shall not attach a ballot label by tape to a rod, or place a ballot label into a clear plastic envelope through which a rod is inserted.

(4) The ballot label assembly shall be inserted and sealed into each voting device so that the ballot label assembly cannot be removed without breaking the seal. Seals approved by the board of state canvassers shall be used for this purpose.

(5) The ballot label of each voting device of a precinct shall be compared against the edit listing and instruction ballot for the precinct to ascertain that the offices, candidates' names, and ballot position numbers are the same and appear in the same position.

(6) The ballot labels of each device shall be examined to ascertain that holes in the mask appear directly opposite each arrow, that other holes do not appear in the mask, and that the ballot labels are in proper sequence.

(7) An assembled voting device shall be tested to determine if it is operating properly.

(8) The identifying number of the voting device and the seal number used to seal the ballot label assembly to the device shall be recorded on the certificate in the poll book for the precinct in which the device is to be used. The clerk or an authorized assistant who sealed the device shall sign the certificate.

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(9) When a voting device has been prepared for the election, the election commission, the clerk, or an authorized assistant shall execute a certificate in writing, which shall be filed with the election commission of the jurisdiction in which they are authorized to act. The certificate shall contain the precinct number, the identifying number of the device, and the number of the seal or seals used to seal the device, and state that the ballot labels have been compared against the edit list for that precinct and that the candidates' names and ballot numbers agree and appear in the same position and that the device has been properly prepared and tested. If the certificate is signed by other than the election commission, the election commission or its authorized assistant shall be offered an opportunity to inspect the voting devices to determine whether they are properly prepared. In an election when state and county officers or measures are to be voted for, a duplicate certificate shall be filed with the county clerk.

History: 1954 ACS 98, p. 42, Eff. Aug. 8, 1978.

R 168.776 Preparation of official test deck.

Rule 6. (1) The election commission providing the program or its authorized assistant shall prepare a test deck with predetermined results.

(2) The test deck shall consist of ballot cards of the same type to be used in the election with the word "TEST" stamped, printed, or written on each card.

(3) A document, record, chart, or listing shall be prepared indicating the punches recorded in the test ballot card. This documentation shall indicate each valid or invalid vote.

(4) In addition to other requirements of the act, a ballot card for use in the test deck for a partisan general election shall be prepared:

(a) So that each political party receives not less than 2 straight ticket votes and so that any 2 parties do not receive the same number of straight ticket votes.

(b) So that 2 or more parties receive straight ticket votes on 1 ballot.

(c) So that at least 1 of the ballots with a straight ticket vote for a party shall be individual punches for candidates of the same party, candidates of a different party, candidates for the same office of different parties, and nonpartisan candidates and proposals.

(d) In which punches appear in positions other than those used for candidates, proposals, or to indicate straight party voting.

(e) In which a punch does not appear.

(f) In which a punch appears in each position where a candidate or proposal appears on the ballot label.

(5) In addition to other requirements of the act, a ballot card for use in the test deck for a partisan primary shall be prepared:

(a) So that punches appear on the same ballot card for candidates of different political parties, along with candidates for nonpartisan offices and votes for proposals.

(b) So that punches appear on the same ballot card for candidates of 1 or more political party and a punch made in the "party qualification section" of the ballot, and shall include punches for nonpartisan offices and for proposals.

(c) So that more than 1 punch appears in the "party qualification section" of the ballot.

(6) When 2 or more valid punch positions exist in the combination of numbers listed below, each of the valid punch positions shall be punched into 1 or more ballot cards:

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228 Position Ballot Card

1-77-153	20- 96-172	39-115-191	58-134-210
2-78-154	21- 97-173	40-116-192	59-135-211
3-79-155	22- 98-174	41-117-193	60-136-212
4-80-156	23- 99-175	42-118-194	61-137-213
5-81-157	24-100-176	43-119-195	62-138-214
6-82-158	25-101-177	44-120-196	63-139-215
7-83-159	26-102-178	45-121-197	64-140-216
8-84-160	27-103-179	46-122-198	65-141-217
9-85-161	28-104-180	47-123-199	66-142-218
10-86-162	29-105-181	48-124-200	67-143-219
11-87-163	30-106-182	49-125-201	68-144-220
12-88-164	31-107-183	50-126-202	69-145-221
13-89-165	32-108-184	51-127-203	70-146-222
14-90-166	33-109-185	52-128-204	71-147-223
15-91-167	34-110-186	53-129-205	72-148-224
16-92-168	35-111-187	54-130-206	73-149-225
17-93-169	36-112-188	55-131-207	74-150-226
18-94-170	37-113-189	56-132-208	75-151-227
19-95-171	38-114-190	57-133-209	76-152-228

235 Position Ballot Card

21-78	40-117	1- 97-136-156-176-196-216
22-79	41-118	2- 98-137-157-177-197-217
23-80	42-119	3- 99-138-158-178-198-218
24-81	43-120	4-100-139-159-179-199-219
25-82	44-121	5-101-140-160-180-200-220
26-83	45-122	6-102-141-161-181-201-221
27-84	46-123	7-103-142-162-182-202-222
28-85	47-124	8-104-143-163-183-203-223
29-86	48-125	9-105-144-164-184-204-224
30-87	49-126	10-106-145-165-185-205-225
31-88	50-127	11-107-146-166-186-206-226
32-89	51-128	12-108-147-167-187-207-227
33-90	52-129	13-109-148-168-188-208-228
34-91	53-130	14-110-149-169-189-209-229
35-92	54-131	15-111-150-170-190-210-230
36-93	55-132	16-112-151-171-191-211-231
37-94	56-133	17-113-152-172-192-212-232
38-95	57-134	18-114-153-173-193-213-233
39-96	58-135	19-115-154-174-194-214-234
		20-116-155-175-195-215-235

(7) A duplicate of the test deck shall be prepared. The duplicate of the test deck may consist of standard data processing cards.

History: 1954 ACS 96, p. 42, Eff. Aug. 8, 1978.

R 168.777 Preliminary accuracy test.

Rule 7. (1) The election commission providing the program or its authorized assistant shall conduct a preliminary accuracy test of the computers and programs for all precincts prior to the accuracy test.

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(2) The preliminary accuracy test shall be conducted using the test decks prepared under the direction of the commission. For the purpose of this test, the test deck may be reproduced onto standard data processing cards.

(3) When an errorless count has been made for all precincts, the commission or its authorized assistant providing the program shall do all of the following:

(a) Secure the programs, test decks, and predetermined results in a metal container, which shall be sealed with a metal seal.

(b) Certify that all precincts have been tested using the test deck prepared under the direction of the commission and that the results agree with the predetermined results of the test deck. The certificate shall contain the number of the seal which was used to secure the program.

(c) Deliver programs, test decks, predetermined results, and the certificate to the clerk of the unit of government providing the program.

History: 1954 ACS 98, p. 43, Eff. Aug. 8, 1978.

R 168.778 Accuracy test.

Rule 8. (1) The commission providing the program shall designate a time and place for an accuracy test, which shall be held not less than 5 days before the election.

(2) The accuracy test shall be conducted by an accuracy board, which shall be the election commission supplying the program. A member of the commission may designate a person to serve in his or her place on the accuracy board. A member of the commission who so designates a person to serve at the accuracy test shall notify the clerk before the test. The clerk of the commission or the designated representative of the clerk shall be chairperson.

(3) Members of the accuracy board shall be present at the accuracy test.

(4) The clerk in charge of the program may limit the number of persons who may be in the computer room and the duration of their stay in the computer room.

(5) The initial testing of the computers and programs shall be with the test deck prepared under the direction of the commission. The number of precincts to be tested shall be determined by the accuracy board. The members of the accuracy board may prepare or cause to have prepared additional ballot cards to be included in the test deck.

(6) Each program and test deck shall be tested on the computer on which it is to be used for the election.

(7) After demonstrating the accuracy of the programs and computers, the following persons may prepare test ballot cards for testing:

(a) A member of a board of canvassers which shall certify all or part of the election or a designated representative.

(b) The county chairperson of each political party appearing on the ballot or a designated representative.

(c) A candidate whose name appears on the ballot or a designated representative.

(d) A representative from each group interested in a proposal or measure who has informed the commission in writing of that person's intent to participate in the testing procedure. The number of cards each eligible person is allowed to prepare shall be determined by the accuracy board, except that an eligible person shall not be limited to less than 10 cards.

(8) The commission supplying the program shall provide the following items at the accuracy test:

(a) An edit listing.

(b) Test ballot cards.

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(c) At least 1 set of ballot labels or sample ballots for each precinct.

(9) If an error is detected in the testing, the cause shall be ascertained, the error shall be corrected, and an errorless count shall be made for all precincts. If determined by the accuracy board, the meeting may be adjourned to a time and date certain.

(10) The secretary of state or a designated representative may provide a test deck for a program. If so, it shall be delivered at the accuracy test. At the discretion of the secretary of state, it may be used in place of, or in addition to, the test deck prepared by the commission.

(11) The accuracy board shall certify the accuracy of the test. The certification may be attached to, or written on, the computer results of the accuracy test.

(12) The accuracy board shall secure all programs, test decks, certified computer results of the test, and the predetermined results in a metal container, which shall be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. Attached to or inside the container shall be a certificate describing its contents and on which the number of the seal has been recorded. The certificate shall be signed by the members of the accuracy board and, if attached to the container in a plastic envelope, it shall be attached in such a manner that it cannot be removed without breaking the seal.

(13) The accuracy board shall immediately deliver to the clerk in charge of the election the metal case containing the programs and test decks. The clerk shall retain and secure the programs.

History: 1954 ACS 96, p. 44, Eff. Aug. 8, 1978.

R 168.779 Preparation and delivery of election supplies.

Rule 9. (1) The clerk of the unit of government providing the voting devices or an authorized assistant shall place into a transfer case the ballot cards for each precinct. The transfer case shall be secured with a metal seal and contain a certificate signed by the clerk or an authorized assistant setting forth the number of ballots in the case and that the ballots were counted and sealed by the clerk or by an authorized assistant. Ballot cards not issued to a precinct or assigned for absentee voting shall be secured and accounted for by the clerk. The clerk shall maintain a record of the number of ballot cards and serial numbers issued to each precinct. The ballot cards shall be delivered to the chairperson or a member of the board of inspectors of the proper precinct.

(2) Precinct supplies shall include the following items:

(a) An edit listing for the precinct.

(b) A pencil for each voting device.

(c) A set of instructions for operating the precinct on election day.

(d) An envelope labeled "SPOILED BALLOT CARDS".

(e) An envelope labeled "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON" if the duplication is to be done at the precinct.

(3) If the precinct header card is sent to the precinct, it shall be contained in an envelope for that purpose and included in the transfer case for the precinct.

(4) The voting devices, demonstration voting devices, voting booths, ballot cards, ballot envelopes, transfer case, and all other necessary supplies shall be delivered to the precinct not later than 6:30 a.m. on election day.

(5) A ballot box shall be provided to each precinct for the deposit of voted ballot cards. The ballot box shall be capable of being locked or sealed during election day.

History: 1954 ACS 96, p. 45, Eff. Aug. 8, 1978.

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R 168.780 Election inspectors; duties prior to opening of polls.

Rule 10. (1) Voting devices shall be used in voting booths or in self-contained voting stations.

(2) If voting devices are used in self-contained voting stations, the stations shall be arranged so that the secrecy of the ballot is not violated.

(3) The election inspectors shall do all of the following:

(a) Compare the seal number and identifying numbers on the devices with the numbers recorded in the poll book.

(b) Compare the names, proposals, and ballot position numbers printed on the ballot labels, edit listing, and precinct instruction ballot to ascertain that the offices, proposals, and candidate names are the same and appear in the same order on each.

(c) Verify that the ballot label pages are in the proper order.

(d) Check the mask to see that holes only appear directly opposite each arrow and that the arrow points directly to the hole opposite it.

(e) Place a demonstration card into each device and make a punch for each candidate and proposal on the ballot. The inspector shall examine the card to see that each candidate and proposition received a proper punch.

(f) Verify that there is a pencil provided for each device.

(g) Check each stylus to see that it is not broken.

(h) Determine that there is adequate lighting.

(4) In the event of a discrepancy, the election inspectors shall notify the clerk immediately and the voting device shall not be used until the discrepancy is resolved.

(5) The demonstration voting device shall be placed so as to afford each voter an opportunity to use it prior to voting.

History: 1954 ACS 96, p. 45, Eff. Aug. 8, 1978.

R 168.781 Conduct of election and manner of voting.

Rule 11. (1) The election inspector having charge of the ballots shall deliver to the voter an official ballot card and envelope. The ballot card number shall be entered onto the application to vote at the time the card is issued. The name of the voter and ballot card number issued shall then be entered into the poll book and the voter number entered upon the application to vote.

(2) Upon being issued a ballot card and envelope, the voter shall enter a voting station and record his or her selections on the ballot card. Before leaving the booth, the voter shall insert the ballot card in the ballot envelope with the detachable stub on the outside and so that any part of the face of the voting portion of the ballot card is not exposed.

(3) The election inspector designated to receive the ballot from the voter shall ascertain by comparing the number on the ballot card with the number recorded on the poll list whether the ballot given to the inspector is the same ballot furnished to the voter. If it is the same ballot, the inspector shall remove the detachable stub and in the presence of the voter, deposit the ballot into the ballot box. If the ballot received is not the same ballot furnished to the voter, the ballot shall not be counted and the voter shall not be permitted to vote at the election. The ballot shall be marked void with the reason therefor and inserted in an envelope and placed in the transfer case. In any event, the ballot shall not be deposited with the valid voted ballots.

(4) If a voter is challenged, the election inspector shall do all of the following:

(a) Record the ballot number appearing on the stub onto the back of the ballot envelope.

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(b) Cover the number with a slip of paper so as to conceal the number.

(c) Issue a ballot to the challenged voter who will vote and cast the ballot in the usual manner. If a combination ballot card and write-in ballot is used, the ballot number shall be recorded on the back of the write-in portion of the ballot and covered in the same manner as described in this rule.

(5) It shall not be necessary to identify the ballot of an assisted voter in the same manner as that of a challenged voter.

(6) The election inspectors shall frequently check the seals and ballot label pages of the voting devices to ensure that none have been altered or defaced. If the board finds that the ballot pages of a device have been altered, mutilated, or damaged in such a manner that the board cannot correct them without doing damage to the offices, names and proposals appearing on the pages, the device shall not be used until the condition is corrected. A note of the occurrence shall be made in the remarks section of the poll book.

(7) A ballot card found in a booth or device shall be marked with the words "FOUND IN BOOTH." The card shall be placed in an envelope which shall be placed in the transfer case. A note of the occurrence shall be made in the remarks section of the poll book.

History: 1954 ACS 98, p. 45, Eff. Aug. 8, 1978.

R 168.782 Election inspectors; duties after polls are closed.

Rule 12. (1) The ballot labels and seals of each voting device shall be inspected to ensure that they have not been altered and are intact and that seal numbers agree with the numbers as verified at the opening of the polls. A discrepancy shall be noted in the remarks section of the poll book.

(2) The election inspectors shall open the ballot box and remove the ballots. Prior to removing the ballots from their envelopes, they shall be counted to determine the total number. The inspector shall compare the total number counted with the number of names recorded in the poll book. If the ballots are in excess of the number of voters according to the poll lists and it is impossible to reconcile the number, 1 of the inspectors shall publicly remove as many ballots as shall be equal to the excess. The removed ballots, while still in their envelopes, shall be marked "EXCESS," placed in an envelope, and sealed. The board shall note on the outside of the envelope its contents and place it in the transfer case. A notation of the pertinent facts shall be made in the remarks section of the poll book. If the number of ballots counted is less than the number of voters according to the poll lists, the reason for the discrepancy shall be noted in the remarks section of the poll book. If the inspectors are unable to explain the discrepancy, they shall so state in the remarks section of the poll book. The inspectors' determination shall constitute conclusive and sufficient explanation for purposes of a recount.

(3) At an election where a candidate appears on the ballot, the election inspectors shall identify each ballot card and its corresponding official ballot envelope by utilizing a method of unique identification with each. Combination ballot card and write-in ballots shall be identified in a like manner.

(4) At the discretion of the clerk in charge of the election, the examination of ballot cards for damage, hanging chads, distinguishing marks made by the voter, and for indications of write-in votes may be done at the precinct or at the counting center.

(5) Any distinguished ballot shall be placed in an envelope on which the words "DISTINGUISHED BALLOT" shall appear. The envelope shall be placed in the transfer case. A notation of this occurrence shall be made in the remarks section of the poll book.

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(6) When the ballot cards have been processed and checked, the inspectors shall determine that the number of ballot cards which they are submitting to the counting center for tabulation agrees with the number of names recorded on the poll lists less discrepancies for which notations have been made in the poll book. The number of ballot cards which are being submitted for tabulation shall be entered in the appropriate place on the certificate prepared by the election inspectors.

(7) The election inspectors shall prepare a certificate indicating the number of ballot cards issued to the precinct, number of ballot cards issued to voters, number of spoiled ballot cards, and the number of unused ballot cards. The certificate shall be placed in the transfer case or included in the poll book.

(8) The election inspectors shall place into the transfer case for delivery, as directed, all of the following:

(a) Voted ballot cards.

(b) Ballot envelopes used in the election, unless they are placed and sealed in a separate metal container at which time they may be delivered to a place other than the counting center at the direction of the clerk.

(c) An envelope marked "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON" and containing those ballots, if used.

(d) An envelope containing spoiled ballot cards.

(e) Envelopes, with notations and contents, containing any other issued ballot cards which are not to be counted.

(f) A certificate signed by the inspectors indicating the number of ballot cards issued, spoiled, and unused, unless included in the poll book pursuant to subrule (7).

(g) The write-in tally return sheet, unless included in poll book.

(h) Unused ballot cards, unless sealed in a separate container.

(9) The election inspectors shall sign a certificate of election inspectors in the poll book. The certificate shall state all of the following:

(a) The number of voters who voted as shown by the poll list.

(b) That the challenged and disabled voter list is correct.

(c) That prior to opening the polls, each device was examined and found to be sealed with metal seals bearing the same numbers as certified by the election commission.

(d) That the ballot labels were in their proper places and conformed to the instruction ballots.

(e) That the position of candidate names and ballot numbers on the ballot labels was the same and appeared in the same position as indicated on the edit listing.

(f) That at the close of the polls, each device was examined and found to be sealed with the same numbers as verified at the opening of the polls and that the ballot labels were in their correct position.

(g) That the poll lists were compared, that the mistakes found in the lists were corrected, and that the poll lists are corrected and agree with each other or that exceptions are noted in the remarks section of the poll book.

(h) The number of ballot cards submitted for tabulation.

(i) That if the number of ballots being submitted for tabulation does not agree with the number of voters as indicated by the poll list, the discrepancy is noted in the remarks section of the poll book.

(j) That ballot cards have been identified to their corresponding ballot envelopes.

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(k) That ballot cards required to be duplicated by the election inspectors have been properly duplicated.

(l) That write-in votes counted at the precinct have been properly recorded, that ballot cards, duplicated cards, and ballot envelopes used in the election have been placed in the transfer case and that the case was securely sealed with an official metal seal in such a manner as to render it impossible to open the case without breaking the seal.

(m) The number of the seal used to seal the transfer case.

(10) The election inspector shall do either of the following:

(a) Place the poll book in the envelope, seal it with a red paper seal, and deliver it with or in the transfer case.

(b) Insert the poll book into the transfer case for delivery.

(11) If the space in 1 transfer case is inadequate, a second transfer case or metal container of a type approved by the board of county canvassers for the storage of ballots shall be used and the sealing and security handled in the same manner as the transfer case.

(12) The transfer case shall be sealed with a metal seal in a manner as to render it impossible to open the case or insert or remove ballots without breaking the seal. Attached to the transfer case by the seal shall be a transfer case identification tag indicating the date of election, the jurisdiction, the precinct, and the number of the metal seal used to seal the case. The seal number shall be recorded in the certificate of election inspectors in the poll book.

(13) The poll book and the transfer case containing the required items shall be delivered by 2 election inspectors to the location designated by the clerk.

History: 1954 ACS 96, p. 46, Eff. Aug. 8, 1978.

R 168.783 Hanging chads.

Rule 13. (1) A ballot card with a hanging chad shall be processed by not less than 2 election inspectors of differing political party preference.

(2) A ballot card with a hanging chad shall be processed as follows:

(a) When a chad is found attached to the card by 1 or 2 corners, the chad shall be removed by the inspector and the ballot card placed with the other ballot cards to be tabulated.

(b) When a chad is found attached to the card by 3 corners, the number not punched shall be circled on the original card. The original ballot card shall then be placed in the envelope for "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON" and the duplicated ballot card, if made, placed with the other ballot cards to be tabulated. A chad hanging by 3 corners may be covered with a piece of correction tape instead of being duplicated. The original ballot card, after being corrected, shall be placed with the other ballot cards to be tabulated.

History: 1954 ACS 96, p. 48, Eff. Aug. 8, 1978.

R 168.784 Processing write-in ballots.

Rule 14. (1) Write-in ballots shall be processed by not less than 2 election inspectors of differing political party preference.

(2) In processing write-in ballots, the election inspectors shall first determine if a voter has recorded a write-in vote on the designated place for write-in votes. A write-in vote placed in any other space shall not be processed further, except that if there are more write-in votes than designated spaces, the voter may place additional write-in votes on the ballot envelope or on the combination ballot card and write-in ballot.

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(3) The election inspectors shall next determine if the voter has recorded the following information for a write-in vote:

(a) The name of an office to be voted on at that election.

(b) The name of a candidate for that office.

(c) If a partisan primary, the name of a party appearing on the primary ballot.

(4) Write-in votes which do not state an appropriate office, a candidate's name, or for which the name of a party in a partisan primary is omitted shall not be processed further.

(5) The election inspectors shall next determine if the write-in vote has caused an overvote. A straight party ticket vote and a write-in vote for a partisan office is not an overvote. An individual punch for an office and a write-in for that office shall be considered an overvote, if the total exceeds the number of permitted choices for that office.

(6) Where a write-in vote is determined to meet the qualifications set forth in subrules (2) and (3) and an overvote does not exist, the election inspectors shall enter the candidate's name, the office, and if a partisan primary, the name of the party on the write-in tally return. The ballot card shall be placed with the other ballot cards for tabulation and the envelope containing the write-in vote shall be placed with the other envelopes used in the election.

(7) When a write-in vote is determined to meet the qualifications set forth in subrules (2) and (3) and an overvote exists, the election inspectors shall duplicate the original ballot card, omitting the punches for the office for which the write-in caused an overvote. A duplicate ballot card shall be placed with the original ballot cards to be tabulated. In place of duplication, correction tape may be used to cover up holes for an office for which the write-in caused an overvote. If correction tape is used, the original ballot card after being corrected shall be placed with the other ballot cards to be tabulated. The envelopes containing the write-in shall be placed with the other envelopes used in the election and a write-in shall not be recorded for the office which was overvoted.

(8) In a partisan general election, if the voter has voted a straight party ticket and has voted a write-in vote for a partisan office, the election inspectors shall duplicate the ballot card by omitting the straight party ticket punch and by punching a vote for every candidate of that party except for the office where a write-in vote was made. Correction tape shall not be used for this purpose. An alternate procedure may be used to count write-in votes when a straight ticket has been voted if the alternate system is presented to the secretary of state detailing the procedure and the secretary of state approves the procedure. The procedure shall only be approved for use in the units of government requesting use of the procedure. The secretary of state may rescind approval if at a later date it is determined that the procedure is not affording voters proper protection.

History: 1954 ACS 98, p. 48, Eff. Aug. 8, 1978.

R 168.785 Duplication of ballot cards.

Rule 15. (1) When a ballot card is duplicated, the duplication process shall be performed by not less than 2 election inspectors of differing political party preference.

(2) A duplicate ballot card shall be marked "DUPLICATE # _____." The number to be recorded on the duplicate card shall be the same identifying number recorded on the original card by the precinct inspector. The precinct number shall be recorded on the duplicate card.

(3) A duplicate ballot card shall be compared against the original ballot card to ensure that it has been accurately duplicated.

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(4) An original ballot card which required duplication shall be placed in the envelope marked "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON" and shall be placed in the transfer case for that precinct. The duplicated ballot cards shall be placed with the ballot cards to be tabulated.

History: 1954 ACS 96, p. 49, Eff. Aug. 8, 1978.

R 168.786 Absentee ballots; issuance, processing, and tabulation.

Rule 16. (1) In a community in which electronic voting devices are used and absentee votes are cast on regular paper ballots, the absentee ballots shall be counted by absent voter counting boards as paper ballots.

(2) In a community in which electronic voting devices are used and absentee votes are cast on absent voter ballot cards, the absentee ballots may be sent to the proper precinct to be tabulated with the precinct ballot cards or to an absent voter counting board to be processed and tabulated as separate precincts.

(3) In a community using voting machines, absentee votes may be cast on absent voter ballot cards. The absentee ballots shall be sent to absent voter counting boards to be processed and tabulated as separate precincts.

(4) If the voter is to vote by means of an absent voter ballot card, the clerk shall prepare and issue an absent voter ballot packet consisting of the following:

(a) Absent voter ballot card.

(b) Punching tool.

(c) Absent voter instruction ballot.

(d) Ballot envelope for the voter to insert the voted portion of the ballot card after voting.

(e) Return envelope as required in section 761 of the act.

(f) A copy of section 758 of the act.

(g) Absent voting instructions prescribed by the secretary of state.

(5) If absent voter ballot cards are used and the voter fails to return a ballot card envelope, the inspectors shall place the ballot card into a ballot envelope in a manner as to preserve the secrecy of the ballot.

(6) If absent voter counting boards are used, certifications which are not relevant to the operation of an absent voter counting board may be omitted from the certificate of election inspectors in the poll book.

History: 1954 ACS 96, p. 49, Eff. Aug. 8, 1978.

R 168.787 Delegate to county convention.

Rule 17. (1) When 1 or more cities or townships uses electronic voting devices, the board of county election commissioners may provide for the election of delegates to the county convention by means of electronic voting devices.

(2) In communities using electronic voting devices, when the names of candidates for the office of delegate have been printed on the ballot label, the following shall apply:

(a) The precinct inspectors and, when applicable, the absent voter counting board inspectors shall certify and forward the counting center certifying board the write-in votes received for the office of delegate to the county convention, the party for which each vote was cast, the registration status, and street address of each write-in for delegate.

(b) The clerk in charge of the election shall provide to the certifying board the street addresses of those candidates for delegates whose names are printed on the ballot label and, upon request, the registration status of a candidate receiving write-in votes for the office of delegate to the county convention.

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(c) The counting center certifying board shall certify the election of delegates to the county convention from the computer results and the write-in certifications. The members of the counting center certifying board shall be deemed to be precinct inspectors of the various election precincts for this purpose.

(3) In communities using electronic voting devices and when the names of delegates have been printed on the ballot labels and absent voters vote for delegates by absent voter ballot card, the absent voter ballot cards may be sent for processing to absent voter counting boards. Absent voter ballots shall be processed and counted as follows:

(a) Absent voter ballot cards shall be identified as to precinct.

(b) Absent voter counting boards shall process the ballots by precinct.

(c) Absent voter counting boards shall maintain and certify a separate poll list for each precinct which shall be transported to the counting center.

(d) The ballot cards shall be transported to the counting center in sealed transfer cases in the same manner proved for precinct ballot cards. A transfer case may contain the absent voter ballot cards for more than 1 precinct.

(e) At the counting center, the absent voter ballot cards of a precinct shall be placed with the ballot cards of its corresponding precinct and shall be tabulated and certified together.

(f) The absent voter precinct poll book shall be attached and become part of the precinct poll book.

(g) The transfer case containing the ballot cards may be delivered to the counting center by 2 inspectors appointed by the clerk.

History: 1954 ACS 98, p. 50, Eff. Aug. 8, 1978.

R 168.788 Receiving station.

Rule 18. (1) At the option of the clerk in charge of the election, a transfer case may be delivered by the precinct inspectors to a receiving station instead of directly to the counting center. If a receiving station is used, the clerk shall appoint at least 1 receiving board.

(2) The clerk in charge of the election shall determine the number of precincts which may be received by a receiving station.

(3) Upon receipt of the transfer case from the precinct inspectors, the receiving board shall verify that the seal number on the transfer case is the same as that recorded by the election inspectors. The case shall then be opened and the receiving board shall determine whether it contains the ballot cards and other required items. A discrepancy in the seal number or contents shall be noted and explained in the poll book by the precinct inspectors delivering the transfer case.

(4) The receiving board shall issue a receipt for the transfer case to the election inspectors delivering the case. The receipt shall indicate in general terms the contents of the transfer case and be made in duplicate. The original copy shall be given to the inspectors delivering the transfer case and the duplicate retained for delivery to the clerk in charge of the election.

(5) The receiving board shall place the metal seal with which the case was originally sealed inside the transfer case and reseal the transfer case with an official metal seal. The number of the seal used to reseal the transfer case shall be recorded on the transfer case identification tag and the receiving station certificate portion of the poll book.

(6) The transfer case upon resealing shall contain the items required by these rules. Resealing shall be done in a manner as to render it impossible to open the case or remove or insert ballots without breaking the seal. The transfer case identification tag shall be attached to the transfer case by the seal.

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(7) The receiving station certificate section of the poll book shall read substantially as follows:

RECEIVING STATION CERTIFICATE

We hereby certify that the transfer case, properly sealed, containing ballots for this precinct was received by the receiving board. The seal number agreed with the number recorded in the poll book.

We further certify that after examining the transfer case as to the contents, the original seal was placed inside the transfer case. The transfer case was then resealed with seal number _____.

(8) The receiving board shall complete and sign the certificate.

(9) Not less than 2 election inspectors of differing political party preference shall transport the transfer cases to the counting center.

History: 1954 ACS 96, p. 50, Eff. Aug. 8, 1978.

R 168.789 Counting center election inspectors; appointment.

Rule 19. (1) If a counting center is used, the election commission of a local unit of government using that counting center shall appoint not less than 1 receiving board and 1 certifying board.

(2) If the county owns the devices and supplies the program, and when more than 1 local unit of government shares a computer center and a mutual agreement exists with the county as provided in R 168.772(10), the county election commission shall appoint not less than 1 receiving board and 1 certifying board. In this case, the county clerk shall be in charge of the counting center.

(3) An election commission may appoint a separate board for the purpose of examining, processing, and duplicating ballot cards. The board shall consist of not less than 2 members of differing political party preference.

(4) An election commission in charge of the computer counting center may appoint the same persons to the receiving, certifying, and other boards.

(5) The election commission supplying the program shall appoint a person knowledgeable and capable of operating the computer on which the ballots shall be tabulated. They may, in addition, appoint another person to observe the operation of the computer. These persons shall be considered election officials. When more than 1 local unit of government shares a computer and an agreement has been made with the county as provided in R 168.772(10), the election commission of the county shall make the appointments.

(6) The person who operates the computer used for tabulation of ballots shall not be the same person who prepared the computer program. This shall not preclude the clerk or the clerk's authorized assistant who prepares precinct control cards for use with a specialized computer from operating the computer.

(7) A member of a board of canvassers which certifies all or part of the election shall not serve on any board established under this rule.

History: 1954 ACS 96, p. 51, Eff. Aug. 8, 1978.

R 168.790 Counting center; receiving, tabulating, and certifying ballots.

Rule 20. (1) The certifying board shall determine that the seal number on the container containing the programs, official test deck, and predetermined results agree with those recorded in the certificate of the accuracy board.

(2) The certifying board shall test the program and computer as to accuracy prior to the tabulation of ballots and again after the last precinct has been counted,

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and shall certify the results. The accuracy test shall be conducted using the official test deck prepared under the direction of the election commission and certified by the accuracy board. The certifying board shall use the same test as was conducted by the accuracy board. The certifying board shall ascertain that their results agree with the results as certified by the accuracy board. The computer results of the certifying board accuracy test shall be identified as to date and time they were conducted. The certifying board shall certify that the required tests have been performed. This certificate shall be placed under seal with the program, test deck results, and other required materials and shall be delivered to the clerk in charge of the election.

(3) The certifying board may periodically during the tabulation of ballots test the program and computer, using the official test deck.

(4) A console log of the ballot tabulation shall be maintained and, at the completion of the count and accuracy test, certified by the computer operator and any observer appointed by the election commission. The console log shall be delivered to the clerk in charge of the election. If the computer used to tabulate the ballots is not capable of generating a console log, then a manual log of any abnormal events shall be maintained.

(5) Upon receipt of the transfer case from the inspectors, the receiving board shall verify that the seal number on the transfer case is the same as that recorded by the election inspectors. The case shall then be opened and the computer center receiving board shall determine whether it contains ballot cards and other required items. A discrepancy in the seal number or contents shall be noted and explained in the remarks section of the poll book by the election inspectors delivering the transfer case.

(6) The computer center receiving board shall issue a receipt for the transfer case to the election inspectors delivering the case. The receipt shall indicate in general terms the contents of the transfer case and shall be made in duplicate. The original copy shall be given to the inspectors delivering the transfer case and the duplicate retained for delivery to the clerk in charge of the election.

(7) The computer center receiving board shall place the metal seal with which the case was sealed inside the transfer case. The receiving board shall complete the certificate in the poll book, which shall read substantially as follows:

RECEIVING BOARD CERTIFICATE

> We hereby certify that the transfer case, properly sealed, containing the ballot cards for this precinct was received by the counting center receiving board. The seal number agreed with the number recorded on the transfer case identification tag and in the poll book.

(8) The clerk in charge of the election, the designated representatives of the clerk, the observer appointed by the election commission, computer personnel, data processing installation employees, authorized challengers, and the certifying board shall be allowed in the immediate area of the computer. The immediate area of the computer shall be defined by the clerk, but the clerk shall provide the public with a means of observing the computer.

(9) The clerk in charge of the election or the designated representative of the clerk shall be present in the computer room until the count is completed and all items required to be sealed have been sealed.

(10) The certifying board shall determine if the number of ballot cards tabulated by the computer agrees with the number of ballot cards submitted by the inspectors as indicated by the poll book. If a discrepancy exists, the board

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shall endeavor to correct it. If the discrepancy cannot be resolved, a notation of the pertinent facts shall be made in the remarks section of the poll book.

(11) The certifying board shall complete and certify a statement of returns in duplicate. The certificate of the statement of returns shall read substantially as follows:

STATEMENT OF RETURNS CERTIFICATE

We hereby certify that this is a statement of votes cast in this precinct as indicated by the tabulating equipment and that upon completion of the count, all ballots were placed in the transfer case, and that the case was sealed with seal number _____, and that the seal number was recorded in the poll book.

(12) Precinct inspectors may serve as members of the certifying board at the discretion of the clerk in charge of the election.

(13) Upon the completion of the count of a precinct, the ballot cards shall be returned to the transfer case. The transfer case shall be sealed with a metal seal in a manner as to render it impossible to open the case or insert or remove ballots without breaking the seal. If the transfer case is identified as to political unit and precinct, the transfer case identification tag shall be placed in the transfer case. If not, the transfer case identification tag shall be attached to the transfer case by means of a seal.

(14) The seal number used to seal the transfer case shall be recorded on the certificate in the poll book and on the statement of returns.

(15) The precinct statement of returns and poll books shall be delivered to the persons authorized by statute to receive them. If permitted by the clerk of the board of canvassers, precinct statements of returns from 1 or more precincts and poll books may be included in a single envelope or package.

(16) The secretary of state or the clerk in charge of the counting center may require that a manual count of 1 or more offices or proposals in a precinct be conducted by the certifying board prior to certification of the computer tabulated results for that precinct. If the manual count and the computer tabulated results do not agree, the certifying board shall not certify the results until the discrepancy has been reconciled.

(17) After the last precinct has been counted and the final accuracy test has been conducted, the certifying board shall secure all programs, test decks, certified results of accuracy tests, and other related material in a metal container, which shall be sealed with a flat metal seal in a manner so that the container cannot be opened without breaking the seal. Attached to the container shall be a certificate describing the contents and on which the number of the seal has been recorded. The certificate shall be signed by the members of the certifying board.

(18) The clerk in charge of the election shall secure the container containing the programs, test deck, accuracy test results, and other related materials, and the original edit listing until 30 days following the certification of the election if a recount has not been requested or until a date prescribed by the secretary of state.

(19) Ballots used at an election may be destroyed after 30 days following the final determination of the board of canvassers with respect to the election, unless their destruction has been stayed by an order of a court or the secretary of state. Ballots shall not be released for examination, review, or research unless prior approval is obtained by the board of state canvassers.

History: 1954 ACS 98, p. 51, Eff. Aug. 8, 1978.

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R 168.791 Challengers at counting center.

Rule 21. Challengers designated pursuant to section 730 of the act may be at the counting center and a receiving station, including 1 challenger for each separate receiving, ballot inspection, duplicating, and certifying board and for each computer being used to tabulate the ballots.

History: 1954 ACS 98, p. 53, Eff. Aug. 8, 1978.

R 168.792 Canvass.

Rule 22. (1) A board of canvassers may, for reasonable cause, require the person who prepared the program to appear before the board, to bring documents pertinent to the program, and to answer questions relevant to the program.

(2) A board of canvassers may, for reasonable cause, require the person having the custody of the program to appear with the program before the board. A board of canvassers may conduct a test to determine the accuracy of the program.

(3) After testing, if it is found that the program which was used to tabulate the ballots produced incorrect returns, a board of canvassers may require the person who prepared and supplied the program to correct the portions of the program found to be in error and submit to it a corrected program to be used to retabulate the ballots. In that event, an accuracy test shall be held under the direction of the board of canvassers at which time the corrected program shall be tested and certified as provided in these rules. The ballots of the precincts shall be retabulated using the corrected program in the same manner as prescribed in R 168.790. A board of canvassers may summon the certifying board which originally certified the returns to retabulate the ballots and make correct returns. The board of canvassers shall canvass the votes from the corrected returns.

(4) When an examination of documents or programs is completed or the ballots have been counted or retabulated, they shall be returned to the transfer case or containers and shall be sealed and delivered to their legal custodian. The number of the seal shall be recorded on a certificate to be filed with the clerk of the board of canvassers.

(5) When an election of a local unit of government is held at the same time as a county or state election and is to be certified by a local board of canvassers, that board shall not proceed under this rule until obtaining approval from the board of county canvassers.

History: 1954 ACS 98, p. 53, Eff. Aug. 8, 1978.

R 168.793 Recount.

Rule 23. (1) In a recount of a precinct using an electronic voting system, rules promulgated by the board of state canvassers for use in recounts shall apply except where superseded by these rules.

(2) The ballots of a precinct shall be recountable unless any of the following conditions occur:

(a) The seal on the transfer case is broken or bears a different number than that recorded on the poll book, the breaking or discrepancy is unexplained, and security has not been preserved.

(b) The number of ballot cards and the number of voters shown on the poll list do not conform, and the difference cannot be explained to the satisfaction of the board of canvassers conducting the recount.

(c) The seal used to seal the ballot label assembly to a voting device in the precinct is broken or bears a different number than recorded, and the ballot labels or rotation of candidate names is different than that shown by the other devices in the precinct and records of the election commission.

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(3) If a board of canvassers determines that the ballots of a precinct are not recountable, the original return of the votes for that precinct shall be taken as correct.

(4) A board of canvassers may conduct a recount by:

(a) A manual tally of ballot cards.

(b) A tabulation of the ballot cards on a computer using a program designated specifically to count only the offices or proposals being recounted.

(c) A tabulation of the ballot cards on a computer using the same program used on election day.

(d) A combination of subrule (4)(a), (b), and (c).

(5) If a computer is used in a recount, a board of canvassers shall test the program by use of a test deck to determine that the program accurately counts the votes for the offices or proposals being recounted.

History: 1954 ACS 98, p. 54, Eff. Aug. 8, 1978.

BOARD OF STATE CANVASSERS

CONDUCT OF ELECTION RECOUNTS

R 168.861—R 168.890 Rescinded.

History: 1954 ACS 9, pp. 5-10, Eff. Feb. 14, 1957; rescinded 1954 ACS 35, p. 9, Eff. Aug. 14, 1963.

CONDUCT OF ELECTION RECOUNTS

(By authority conferred on the board of state canvassers by section 889 of Act No. 116 of the Public Acts of 1954, being §168.889 of the Michigan Compiled Laws)

R 168.901 Enforcement of rules; decisions subject to appeal.

Rule 1. The rules and regulations prescribed herein shall be enforced by the board of state canvassers and its representatives to insure the fair, impartial, and uniform conduct of recounts. Decisions of the boards of county canvassers, under these rules and regulations, applicable statutes and court decisions, shall be subject to appeal to the board of state canvassers, as hereinafter set forth.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

R 168.902 Security arrangements.

Rule 2. Upon the filing of a petition for recount, the board of state canvassers will make arrangements with the state police to provide for security of all ballots, ballot boxes and voting machines used in the election precincts to be recounted until the recount is completed and the results thereof certified by the board of state canvassers. All such ballots, ballot boxes, their keys, voting machines and the keys thereto shall remain in the possession of the city or township clerks charged by law with the custody thereof until requisitioned by the boards of county canvassers as hereinafter provided.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

R 168.903 Time and place of recount.

Rule 3. The board of state canvassers will publicly announce the time and place for the recount of votes cast in each county affected by such petition for recount. The boards of county canvassers shall arrange for the delivery of the ballots, ballot boxes, ballot box keys, poll lists, tally sheets, statements of returns and such other documents and reports including registration cards as the boards

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of county canvassers may deem necessary, at the time and place designated for the recount by the board of state canvassers. Voting machines and the keys thereto shall remain in the possession of the officials charged with the security and custody thereof, as above provided.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

R 168.904 Review of rules, regulations, and arrangements prior to recount.

Rule 4. Prior to commencement of the recount, the board of state canvassers or its representatives and the board of county canvassers or its representatives shall meet for the purpose of reviewing these rules and regulations and the arrangements made or to be made by the board of county canvassers for the proper conduct of the recount as herein provided.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

R 168.905 Meeting between state board and county board.

Rule 5. At the time and place designated for the commencement of the recount in each county, the board of county canvassers therefor shall meet with the board of state canvassers or its representatives for the purpose of commencing the recount.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

R 168.906 Court reporter or stenographer.

Rule 6. The boards of county canvassers shall provide a court reporter or a competent stenographer who shall be present at all times during the recount and who shall make a stenographic record of the proceeding as hereinafter provided.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

R 168.906a Order of counting precincts.

Rule 6a. Paper ballot precincts within a county shall be counted first unless otherwise specifically provided by the board of state canvassers. Precincts shall be counted in the order which will result in the most expeditious conduct of the recount without regard for who requested the counting of a particular precinct.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

VOTING MACHINES

R 168.907 Persons present at recount; procedure.

Rule 7. (1) Representatives of the board of county canvassers and of the board of state canvassers together with 1 recount clerk, 2 tally clerks and a court reporter or competent stenographer as above provided, and not more than 2 representatives and an attorney of each candidate for the office or offices the votes for which are being recounted and of each of the petitioners in the case of a recount of a proposition shall be present during the opening and recount of each such voting machine. Prior to the opening of the counter compartment of any of the automatic machines or the unsealing of the rear door on any of the Shoup machines used in a precinct, a representative of the board of county canvassers shall dictate for the record, any part of which may be on forms prepared by the board of state canvassers, the following:

(a) The precinct in which the voting machines were used.
(b) Any unusual conditions relative to any of the voting machines.
(c) The identification numbers on each voting machine.
(d) The seal number on each of the voting machines.

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(e) The condition of the seal on each of the voting machines.

(f) The numbers recorded on the public and protective counters of each voting machine.

(2) Such representative shall also dictate for the record the entries contained in the poll book and inspectors' return sheets relative to the number of voters who voted in the precinct, the identification numbers on the various voting machines, the number shown on the respective protective counters prior to the opening of the polls, the readings on the various public and protective counters upon the close of the polls, and the number on the various seals used to seal the voting machines.

(3) A representative of any interested party or of the board of state canvassers shall have the right to dictate into the stenographic record any objection, proposed correction, or addition to such information.

History: 1954 ACS 35, p. 10, Eff. Aug. 14, 1963.

R 168.908 Machine not to be recounted; conditions.

Rule 8. If a voting machine is not locked and sealed in such manner as to render it impossible to vote on the machine or to otherwise change the totals appearing on the individual candidate or proposition counters, or if the seal contains a number other than the number recorded by the inspectors on their returns, that voting machine shall not be recounted and the original return of the inspectors of election for that machine shall be taken as correct.

History: 1954 ACS 35, p. 11, Eff. Aug. 14, 1963.

R 168.909 Machine not to be recounted; additional condition.

Rule 9. If the number appearing on the protective counter of a machine at the time of the recount does not equal the total of:

(a) The number appearing on the protective counter at the opening of the polls as shown by the certificate of election inspectors, and

(b) The number appearing on the public counter at the close of the polls, as shown on the certificate of election inspectors, the voting machine shall not be recounted and the original return of the inspectors of election shall be taken as correct.

History: 1954 ACS 35, p. 11, Eff. Aug. 14, 1963.

R 168.909a Machine not to be recounted; additional condition.

Rule 9a. If the sum of the numbers appearing on the public counters of all machines used in a precinct is in excess of the total of:

(a) The number of voters who voted in the precinct as shown by the poll book, and

(b) The number of times the machine was operated by the inspectors and custodians, as shown by the record of the election inspectors, the returns for that precinct as made by the election inspectors shall be deemed correct and no machines shall be recounted in that precinct.

History: 1954 ACS 35, p. 11, Eff. Aug. 14, 1963.

R 168.910 Opening or unsealing machine subject to recount.

Rule 10. If 1 or more voting machines in a precinct is subject to recount, these voting machines shall be opened and if necessary unsealed. A representative of the board of county canvassers shall enter into the record the name and position of the person opening or unsealing the machines, a description of any unusual conditions relating to any of the machines and a description of their contents. The

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recount clerk shall read and announce in a distinct voice the name and number, if any, of each candidate for the office involved in the recount and the number of votes shown on the individual candidate counters for each candidate, and shall, in like manner, read and announce the vote on each proposition involved in the recount. The votes so called shall be recorded simultaneously by the 2 tally clerks on proper forms provided for that purpose and shall then be called back from the tally sheets by one of the tally clerks and verified on the voting machine by the other tally clerk. The count as shown by the inspectors' returns shall be used for those machines not subject to recount.

History: 1954 ACS 35, p. 11, Eff. Aug. 14, 1963.

R 168.911 Recounting absent voters' ballots.

Rule 11. (1) Absent voters' ballots shall be recounted in the manner hereafter described for counting paper ballots.

(2) Absent voters' ballots in original sealed envelopes shall be counted as the same should have been voted if the recount board determines they are eligible for voting.

(3) Absent voters' ballots which have been voted shall be recounted to determine whether the ballots were validly marked.

(4) Validly marked ballots found not to have been voted shall be counted as the same should have been voted.

(5) Invalidly marked ballots found to have been voted shall be rejected.

(6) Appropriate additions and deductions shall be made to or from the precinct count.

(7) Unless clearly shown to the contrary, the presumption of regularity of action by precinct inspectors shall obtain. To determine facts required for decision of issues under this rule, precinct inspectors may, if necessary, be called and sworn to give evidence.

(8) In communities using absent voter counting precincts, absent voter ballots shall be recounted as provided in the rules for paper ballots.

History: 1954 ACS 35, p. 11, Eff. Aug. 14, 1963.

R 168.912 Opportunity to observe reading of counters.

Rule 12. The representatives of each interested party shall be afforded an opportunity to observe the reading of the individual candidates or proposition counters and each absent voters' ballot, if any, as the votes are called and to make such notations on their private records as they may desire.

History: 1954 ACS 35, p. 12, Eff. Aug. 14, 1963.

R 168.913 Record of recount proceedings.

Rule 13. All proceedings taken in the recount of any voting machines shall be recorded as above provided by the stenographer provided by the board of county canvassers. Representatives of all interested parties shall be afforded an opportunity to make a full and complete stenographic record of any challenges or objections to the proceedings. Upon request of the board of state canvassers, such record shall be transcribed and a copy furnished to the board of state canvassers at the cost of the county. Upon request by any other party, the cost of transcription shall be borne by the party requesting the transcription. Cost of copies of the transcription shall be borne by the recipients.

History: 1954 ACS 35, p. 12, Eff. Aug. 14, 1963.

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R 168.914 Challenges or objections to recount of voting machines.

Rule 14. (1) Upon completion of the recount of all voting machines in a precinct, all challenges or objections shall be presented to the board of county canvassers for its decision. Upon request by the board of county canvassers, the stenographic record of such challenges or objections shall be read to the board of county canvassers. Representatives of each interested party shall be afforded an opportunity to submit authorities and argument to the board of county canvassers for and against such challenges or objections and to make a full and complete stenographic record thereof, including the decision of the board of county canvassers and its grounds therefor. Nothing herein contained shall limit the right of the board of county canvassers to examine any voting machine against the recount of which challenges or objections have been made. Any interested party who considers himself aggrieved by the decision of the board of county canvassers may at the time the decision is rendered appeal such decision to the representatives of the board of state canvassers in the same manner as hereinabove provided for presenting challenges or objections to the recount of voting machines to the board of county canvassers.

(2) The decisions of the board of county canvassers may be confirmed, set aside, or modified by the representative of the board of state canvassers.

(3) At the conclusion of the recount in the several counties, the board of state canvassers shall notify each interested party that such county recounts have been completed. Such notice shall be by registered mail, return receipt demanded at the address furnished to the secretary of state by the interested parties.

(4) The decisions of the representatives of the board of state canvassers may be confirmed, set aside, or modified by the board of state canvassers upon review by written petition therefor setting forth the grounds in detail by any interested party or upon its own motion. Such petition shall be filed with the board of state canvassers not later than 5 days after the mailing of the notice above provided for, Saturdays, Sundays and legal holidays excluded.

History: 1954 ACS 35, p. 12, Eff. Aug. 14, 1963.

PAPER BALLOTS

R 168.915 Providing tables, recount clerks, and tally clerks.

Rule 15. The boards of county canvassers shall provide 1 table where all ballot boxes in each county shall be opened in the manner hereinafter provided and as many other tables as shall be necessary to efficiently recount the ballots in the manner hereinafter provided. The boards of county canvassers shall also provide 1 recount clerk and 2 tally clerks for duty at each such table whenever a ballot box is opened or ballots are recounted.

History: 1954 ACS 35, p. 12, Eff. Aug. 14, 1963.

R 168.916 Candidate and petitioner representatives; powers.

Rule 16. Each candidate for the office or offices the votes for which are being recounted and each of the petitioners in the case of a recount of a proposition shall be entitled to have not to exceed 2 representatives present at each table where ballot boxes are being opened or ballots recounted, and they shall be afforded an opportunity to observe the opening of ballot boxes and each ballot as the votes are called and to make such notations on their private records as they may desire.

History: 1954 ACS 35, p. 13, Eff. Aug. 14, 1963.

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R 168.917 Board of county canvassers and of state canvasser representatives; duties.

Rule 17. (1) A representative of the board of county canvassers and of the board of state canvassers shall be present during the opening of such ballot boxes. A representative of the board of county canvassers shall dictate for the record, any part of which may be on forms provided by the board of state canvassers, the following:

(a) The precinct being recounted.

(b) Any unusual conditions relative to the ballot box.

(c) The manner in which the ballot box is sealed.

(d) Its seal number.

(e) The condition of the seal.

(f) The name and official position of the person who unseals and opens the ballot box.

(g) A description of any ballot package or roll of ballots which is, may be, or is claimed to be involved in the recount. The description shall include a description of the manner in which the ballot packages or rolls are wrapped, tied, sealed, and endorsed. If ballot bags are used in lieu of packages or rolls, the description shall set forth the manner in which the bag is sealed and the number on the seal.

(2) Such representative shall also dictate for the record the entries contained in the poll book and statement book relative to the number of voters who voted at the election and the seal numbers with which ballot boxes and ballot bags, if used, were sealed. A representative of any interested party or of the board of state canvassers shall have the right to dictate into the stenographic record, any objection, proposed correction, or addition to such information.

History: 1954 ACS 35, p. 13, Eff. Aug. 14, 1963.

R 168.918 Recounting ballots where ballot box locked and sealed.

Rule 18. If the ballot box is locked and sealed in such manner as to render it impossible to open it without breaking such seal, and if the ballots therein contained are properly wrapped, tied, and sealed, the ballots shall be recounted; but if the ballots are not properly wrapped, tied, and sealed or if the seal, tape, or wrapper shall have been loosened or broken, such ballots shall be recounted only if they correspond in number with the poll list delivered to the county clerk.

History: 1954 ACS 35, p. 13, Eff. Aug. 14, 1963.

R 168.919 Recounting ballots where ballot box not locked and sealed.

Rule 19. If the ballot box is not locked and sealed in such manner as to render it impossible to open it without breaking such seal, the ballots therein contained shall be recounted if they are properly wrapped, tied, and sealed in such manner as to render it impossible to open such package or roll or remove any of the contents thereof without breaking said seal, but only if they correspond in number with the poll list delivered to the county clerk.

History: 1954 ACS 35, p. 13, Eff. Aug. 14, 1963.

R 168.920 Recount where ballots in ballot box must correspond in number with poll book; procedure.

Rule 20. If ballots in a ballot box must correspond in number with the poll book as above provided before they may be recounted, such ballots shall be returned to their ballot box and assigned to a recount table for a physical count. The recount clerk shall remove such ballots from their wrappers, place them face down upon the recount table, and count the number of ballots. If there are the

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proper number of ballots, such ballots shall be recounted in the manner hereinafter provided; if such ballots do not correspond in number with the poll book as above provided, such ballots shall not be recounted and the recount clerk shall report such fact to the representative of the board of county canvassers at the ballot box opening table for instructions as to the disposition of said ballots. With reference to such precinct, the original return of the inspectors of election shall stand.

History: 1954 ACS 35, p. 13, Eff. Aug. 14, 1963.

R 168.921 Recount where correspondence in number between ballot box and poll list not required; procedure.

Rule 21. If any ballots are subject to recount regardless of their corresponding in number with the poll list, such ballots shall be returned to their ballot box and assigned to a table for recount. The recount clerk shall remove such ballots from their wrappers, place them face down upon the recount table, and count the number of ballots. If the number of ballots is equal to or less than the number of ballots issued on election day, as shown by the poll list, such ballots shall be recounted in the manner hereinafter provided. If the number of ballots is in excess of the number of ballots issued on election day, as shown by the poll list, the ballots shall be turned face up and so many blank ballots or ballots upon which there is no attempted vote for the office or offices or for the proposition or propositions being recounted shall first be withdrawn as shall be equal to the excess. If there are not sufficient blank ballots or ballots upon which there is no such attempted vote to equal such excess, the remaining ballots shall be shuffled and mixed and replaced in the ballot box and the recount clerk shall then draw out so many ballots therefrom as shall be equal to the excess remaining. All such ballots withdrawn shall be publicly destroyed by the recount clerk and the remaining ballots shall be recounted in the manner hereinafter provided. Such ballots shall be laid aside but not destroyed in case a recount of another office or proposition involving the same ballots is being conducted or is pending.

History: 1954 ACS 35, p. 14, Eff. Aug. 14, 1963.

R 168.922 Recounting ballots; procedure.

Rule 22. The ballots shall be placed face up on the recount table and, where applicable, separated by the recount clerk in piles of straight ballots, split ballots and special proposition ballots. Where applicable, the recount clerk shall take each pile of ballots separately and count the straight ballots first. The total straights for each candidate shall then be entered in the proper place on the tally sheet. The split and mixed votes for each office involved in the recount shall then be tallied. When votes are called, they shall be recorded simultaneously by the 2 tally clerks on proper forms provided for that purpose. Votes for and against each proposition involved in the recount shall be separated into piles and then counted. The counting shall be done at least twice and by different people. The whole number of votes cast for each candidate and for and against each proposition shall be recorded.

History: 1954 ACS 35, p. 14, Eff. Aug. 14, 1963.

R 168.923 Rules governing recounting of votes.

Rule 23. The following rules shall govern the recounting of votes:

(a) Where it is clearly evident from an examination of any ballot that the same has been mutilated for the purpose of distinguishing it or that there has been placed thereon some mark, printing, or writing for the purpose of distinguishing

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it, then such ballot shall be void and shall not be counted. The following criteria must be met to find a mark or mutilation to be distinguishing:

(i) It must be clearly evident.

(ii) That the mark or mutilation was placed on the ballot by the voter.

(iii) For the purpose of distinguishing it.

(b) A cross, the intersection of which shall be within or on the line of the proper circle or square, shall be valid. Crosses otherwise located on the ballot shall be void;

(c) Marks other than crosses used to designate the intention of the voter shall not be counted;

(d) A cross shall be valid even though 1 or both lines thereof shall be duplicated, provided that the lines intersect within or on the line of the square or circle;

(e) Two lines meeting within or on the line of the square or circle, although not crossing each other, shall be deemed to be a valid cross where it is apparent that the voter intended to make a cross. This provision shall not be construed as validating so-called "check marks";

(f) A failure to properly mark a ballot as to 1 or more candidates shall not of itself invalidate the entire ballot if the same has been properly marked as to other candidates unless such improper marking shall constitute a distinguishing mark as herein defined;

(g) Erasures and corrections on a ballot made by the elector in a manner frequently used for such purpose shall not be deemed distinguishing marks or mutilations;

(h) Any ballot or part of a ballot from which it is impossible to determine the elector's choice of candidate shall be void as to the candidate or candidates thereby affected;

(i) Any votes cast for a deceased candidate shall be void and not counted;

(j) All ballots cast which are not counted shall be marked by the inspector "not counted," kept separate from the others by being tied or held in 1 package, and placed in the ballot box with the counted ballots; and

(k) No vote shall be counted for any candidate unless a cross has been placed by the voter in the circle at the head of the party ticket, if any, on which the name of the candidate has been printed, written or placed or unless a cross has been placed by the voter in the square before the space in which the name of the candidate has been printed, written or placed.

History: 1954 ACS 35, p. 14, Eff. Aug. 14, 1963.

R 168.924 Determining how ballot recounted; rules.

Rule 24. The following rules as set forth in §168.737 of the Michigan Compiled Laws, as amended, together with applicable court decisions, shall be followed in determining how a ballot shall be recounted.

(a) If the elector makes a cross (x) in the circle under the name of his party at the head of the ballot and does nothing further, he has voted a straight ticket.

(b) Where only 1 candidate is to be elected to an office, to vote for a candidate not on his party ticket, the elector should make a cross (x) in the circle under the name of his party, and also make a cross (x) in the square before the name of the candidate for whom he desires to vote on the other ticket. In such case, it shall not be necessary to cross off the name of the candidate on his party ticket. If the elector votes for more than 1 candidate for the same office where only 1 candidate is to be elected to said office, said ballot shall not be counted for either of such candidates, but shall be as to them null and void.

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(c) When 2 or more candidates are to be elected to the same or like office, such as coroners, to vote for a candidate or candidates not on his party ticket for such office, the elector should mark a cross (x) in the circle under his party name, and mark a cross (x) in the square before the name or names of the candidate or candidates for whom he desires to vote on the other ticket or tickets, and also cross off an equal number of names of the candidates for such office on his party ticket; but if such elector shall not have crossed off the names of an equal number of candidates for such office on his party ticket, he shall be deemed to have crossed off the name of each candidate for such office which is printed on his party ballot opposite the name of the candidate on some other party ticket in front of which name he has made a cross (x);

(d) To vote for a candidate not on any ticket, the elector should write or place the name of such candidate on his ticket opposite the name of the office and make a cross (x) in the circle under the party name;

(e) A ticket marked with a cross (x) in a circle under a party name shall be deemed a vote for each of the candidates named in such party column whose name is not crossed off, except those candidates where a cross (x) is placed in the square before the name of some opposing candidate on another ticket, or where there is written or pasted on the party ticket a name which is not printed on any party ticket;

(f) If the name of any person who is not a candidate on any ticket is written or placed on the party ticket opposite the name of the office and there is a cross (x) in the circle under the party name, the name so written or placed shall be counted 1 vote for such person, whether the original name on the party ticket is erased or not, excepting cases where there is a cross (x) in the square before the name of some opposite candidate on some other party ticket;

(g) If no cross (x) is placed in the circle under the party name, a cross (x) in the square before the name of any candidate shall be deemed a vote for such candidate except in cases where the elector votes for more candidates for the same office than are to be elected; and

(h) Such elector shall indicate his preference on any constitutional amendment or other submitted question by making a cross (x) in the square opposite the word "Yes" or in the square opposite the word "No" opposite or below such question on the proper ballots.

History: 1954 ACS 35, p. 15, Eff. Aug. 14, 1963.

R 168.925 Ballots counted or rejected for recount under protest.

Rule 25. (1) Any ballot counted or rejected for recount by the recount clerk under protest made by any interested party's representative shall be identified by a numbered exhibit card stapled to the challenged ballot. Upon completion of the recount of all ballots in a precinct, all challenged ballots shall be presented to the board of county canvassers for its decision. Representatives of each interested party shall be afforded an opportunity to submit authorities and argument to the board of county canvassers for counting or rejecting each such challenged ballot and to make a full and complete stenographic record thereof, including the decision of the board of county canvassers and its grounds therefor. Any interested party who considers himself aggrieved by the decision of the board of county canvassers may at the time the decision is rendered appeal such decision to the representatives of the board of state canvassers in the same manner as hereinabove provided for presenting challenged ballots to the board of county canvassers.

(2) The decisions of the board of county canvassers may be confirmed, set aside, or modified by the representative of the board of state canvassers.

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(3) At the conclusion of the recount in the several counties, the board of state canvassers shall notify each interested party that such county recounts have been completed. Such notice shall be by registered mail, return receipt demanded at the address furnished to the secretary of state by the interested parties.

(4) The decisions of the representatives of the board of state canvassers may be confirmed, set aside, or modified by the board of state canvassers upon review by written petition therefor, setting forth the grounds in detail by any interested party or upon its own motion. Such petition shall be filed with the board of state canvassers not later than 5 days after the mailing of the notice above provided for, Saturdays, Sundays, and legal holidays excluded.

(5) Challenged ballots shall not be disposed of as provided in R 168.929, but shall be placed in envelopes provided by the board of county canvassers for that purpose. The contents of such envelopes shall be identified as required on forms provided by the board of state canvassers. Such envelopes shall be sealed with a state election seal, initialed by at least 2 members of the board of county canvassers and delivered to the county clerk for safekeeping.

History: 1954 ACS 35, p. 16, Eff. Aug. 14, 1963.

R 168.925a Ballot bags used in lieu of ballot packages; references; tags.

Rule 25a. Where ballot bags are used in lieu of ballot packages, all references to ballot packages shall be deemed to include ballot bags, except that references to seals shall be to metal rather than paper seals.

History: 1954 ACS 35, p. 16, Eff. Aug. 14, 1963.

GENERAL PROVISIONS

R 168.925b Withdrawal of petition; discontinuance of recount.

Rule 25b. (1) If the person petitioning for a recount shall withdraw his petition or discontinue the recount before the completion of the recount of the precincts for which he petitioned, then in such event the original return shall be deemed to be correct regardless of any change shown by the recount of the precincts he or the counter petitioner petitioned to be recounted. In the event of such withdrawal by the petitioner, it shall not be necessary for the counter petitioner to withdraw or ask for a discontinuance.

(2) If the counter petitioner for a recount shall withdraw his petition or discontinue the recount of the precincts he petitioned to have recounted, then the original returns for all precincts for which he requested a recount shall be deemed to be correct regardless of any changes shown by the recount at the time of the withdrawal. A counter petitioner shall not be permitted to withdraw if all precincts for which he petitioned have been recounted. In the event that a counter petitioner withdraws, the recount as to the precincts petitioned for by the original petitioner shall continue until the completion thereof or until such time as he withdraws.

(3) All withdrawals must be in writing signed by the petitioning party.

History: 1954 ACS 35, p. 16, Eff. Aug. 14, 1963.

R 168.926 Candidate and petitioner representatives; identification.

Rule 26. Each candidate for the office or offices the votes for which are being recounted and each of the petitioners in case of a recount of a proposition shall be entitled to have present at the recount not to exceed 1 representative for every table at which ballot boxes are being opened or ballots recounted, and for every voting machine which is being recounted and not to exceed 1 watcher and tallier

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at each such table and voting machine provided for in R 168.907 and R 168.916 hereof. Every such representative shall be furnished written identification by the candidate he represents, or the candidate's political party, or by the proponents or opponents of a proposition whom he represents.

History: 1954 ACS 35, p. 16, Eff. Aug. 14, 1963.

R 168.927 Public observance of recounts.

Rule 27. Provision shall be made for public observance of the conduct of recounts, but the public shall not be allowed within the confines of the actual working area, nor shall vocal or other disturbance of the recount staff by the public be permitted.

History: 1954 ACS 35, p. 17, Eff. Aug. 14, 1963.

R 168.928 Designated representative of board of state canvassers.

Rule 28. The board of state canvassers may designate 1 or more representatives in each county to supervise in its behalf the conduct of recounts, as above set forth. In those counties designated by the board of state canvassers, at least 1 such representative shall be on duty at all times and the decisions of the representative on duty shall prevail. In those counties so designated by the board of state canvassers, at least 2 representatives shall be on duty at all times and any 2 representatives concurring shall have the power to make decisions. In any such county designated by the board of state canvassers, such representatives shall be divided into teams of 3 representatives each, 1 such team to be on duty at all times and a majority decision of the team shall prevail.

History: 1954 ACS 35, p. 17, Eff. Aug. 14, 1963.

R 168.929 Completion of recount; procedure.

Rule 29. Upon completion of the recount of any precinct, all ballots shall be properly wrapped by the recount clerk with a statement of the number and kind of ballots included in each such package, and placed in the voting machine or ballot box. The ballot boxes and voting machines shall then be properly locked and the ballot boxes sealed with a state seal to be supplied by the board of state canvassers and delivered, together with the lock keys, to the respective officers having the care and custody thereof.

History: 1954 ACS 35, p. 17, Eff. Aug. 14, 1963.

R 168.930 Certificate of recount results.

Rule 30. The results of the recount for each county shall then be entered upon a certificate provided for that purpose by the board of state canvassers, signed by the board of county canvassers and representative of the board of state canvassers. The county clerk shall certify that the persons signing the certificate as members of the board of county canvassers are such members of that county. The certificate shall then be forthwith delivered to the board of state canvassers at Lansing, Michigan, which shall then compile said returns from each county and certify the result.

History: 1954 ACS 35, p. 17, Eff. Aug. 14, 1963.

CAMPAIGN FINANCING

(By authority conferred on the secretary of state by section 15 of Act No. 388 of the Public Acts of 1976, being §169.215 of the Michigan Compiled Laws)

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PART 1. GENERAL PROVISIONS

R 169.1 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 388 of the Public Acts of 1976, being §169.201 et seq. of the Michigan Compiled Laws.

(b) "Address" means building number, street or rural route, city, state, and zip code.

(c) "Campaign" or "candidate's campaign" means the candidate committee's activities for a specific election.

(d) "Official depository" means a bank, savings and loan association, or credit union, chartered by the state or the United States, and located and doing business in Michigan.

(e) "Value," "ascertainable monetary value," "anything of value," "thing of value," or "cash equivalent" means the amount usually received in the open market for goods and services.

(2) The terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 91, p. 8, Eff. May 3, 1977.

R 169.2 Secretary of state and county clerk; duties and requirements.

Rule 2. (1) The duties and requirements imposed upon the secretary of state by the act and these rules may be performed by an agent, and at a place, designated by the secretary of state.

(2) The duties and requirements imposed upon a county clerk by the act and these rules may be performed by an agent, and at a place, designated by the county clerk.

History: 1954 ACS 91, p. 8, Eff. May 3, 1977.

R 169.3 Statements, reports, amendments, or applications; form; attachments; entries; signature; inspection and copying.

Rule 3. (1) A statement, report, amendment, or application required to be filed by the act shall be filed in duplicate on a form prescribed or approved previously by the secretary of state. An attachment to a form shall not be on a page differing in size from the form prescribed, unless approved previously by the filing official.

(2) An entry on a statement, report, amendment, or application shall be printed legibly or typed.

(3) A person filing a statement or report required by the act shall complete each item of information requested, or note clearly the item of information is not applicable to the filer.

(4) Committee statements and reports shall be signed by the treasurer of the committee and, if a candidate committee, also by the candidate, on the line indicated following the verification statement. A person other than a committee required to file by the act shall sign a document on the line indicated following the verification statement.

(5) Inspection and copying of statements and reports shall take place only at the office of the filing official.

(6) A filing official shall prepare and post a list of general guidelines and rules with respect to the inspection and copying of documents, and shall post a schedule of charges for copies.

History: 1954 ACS 91, p. 8, Eff. May 3, 1977.

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R 169.4 Reports or statements; late filing fee; date of filing.

Rule 4. (1) If a report or statement is filed after the filing date and is not accompanied by a late filing fee, the report or statement shall be received and considered filed as of that date. The filer shall be given a written notice of the amount of the late filing fee due and unpaid. If payment of the late filing fee is not made within 30 days of the date of the written notice, the filing official shall notify immediately the Michigan department of treasury of the failure to pay so the latter may collect the late filing fee.

(2) A late filing fee shall be forwarded to the state treasurer for deposit to the credit of the general fund of the state.

(3) If a committee is required to file a report or statement with the secretary of state and a county clerk, the filing shall not be complete until the report or statement has been received by both filing officials. The date of filing shall be the date the filing is completed.

(4) If a committee is required to file a report or statement with more than 1 filing official, the late filing fee shall apply for each day until the filing is completed. The late filing fee shall not apply separately for each part of the required filing.

History: 1954 ACS 91, p. 9, Eff. May 3, 1977.

R 169.5 Reports or statements; nonreceipt; list; requests for information; telephone inquiries.

Rule 5. (1) A filing official, within 5 days following a filing date required by the act, shall prepare a list of persons whose required reports or statements have not been received. This list shall be available for public inspection and copying. Prior to completion of the list, inquiries relative to the receipt of filings shall be submitted only in writing or in person.

(2) Upon receipt of any inquiry requesting information relative to the contents of any report or statement filed with a filing official, the filing official shall inform the person requesting information that:

(a) The report or statement is available for inspection or copying at the office of the filing official.

(b) A copy of any page of the report or statement requested may be obtained by payment of the applicable copying charge.

(c) A request for a copy of a report or statement shall not be honored until receipt by the filing official of the applicable copying charge.

(3) A telephone inquiry relative to a substantive matter in a filed report or statement shall not be answered. A telephone inquiry by a filer or an agent of the filer, relative to a report or statement of the filer, shall be answered.

History: 1954 ACS 91, p. 9, Eff. May 3, 1977.

R 169.6 Declaratory rulings.

Rule 6. (1) The secretary of state, on written request of an interested person, may issue a declaratory ruling as to the applicability of the act or these rules to an actual statement of facts. An interested person is a person whose course of action would be affected by the declaratory ruling. A brief or other reference to legal authorities, upon which the person relies for determination of the applicability of the act or of a rule to the statement of facts, may be submitted with the request.

(2) If the secretary of state decides to issue a declaratory ruling, the person requesting it shall be furnished with a statement to that effect. The statement shall set forth the time in which the ruling shall be issued.

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(3) The secretary of state may refuse to issue a declaratory ruling if the request is anonymous, or it is determined the subject matter is frivolous on its face, indefinite, or lacks specificity. If the secretary of state refuses to issue a declaratory ruling, the person making the request, if known, shall be notified of the reason for the refusal.

(4) A ruling shall include the statement of facts, the legal authority, if any, and the rationale on which the secretary of state relies for the ruling, and the determination.

History: 1954 ACS 91, p. 9, Eff. May 3, 1977.

PART 2. COMMITTEES

R 169.21 Committee treasurer; appointment.

Rule 21. A committee shall appoint a treasurer before filing a statement of organization.

History: 1954 ACS 91, p. 9, Eff. May 3, 1977.

R 169.22 Committee treasurer; vacancy.

Rule 22. A vacancy in the office of committee treasurer is created by death, resignation, or removal from office by the appointing authority.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.23 Statement of organization; date filed.

Rule 23. A statement of organization on a prescribed form, received by a filing officer prior to the effective date of the act, shall be considered filed on the effective date of the act.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.24 Statement of organization; designation of committee name.

Rule 24. A statement of organization, filed by a committee which is commonly known by initials only, shall state the full name of the committee. Thereafter, filing of reports and amendments may designate the name of the committee by initials only.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.25 Statement of organization; receipt; acknowledgement; identifying symbol.

Rule 25. Upon receipt of a statement of organization, the filing official shall assign an identifying symbol to the filing committee, acknowledge receipt of the filing, and notify the committee of the identifying symbol. The identifying symbol shall be entered by the committee on each page of subsequent statements or reports filed and on communications concerning statements or reports.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.26 Statement of organization; changes, corrections, or amendments.

Rule 26. A change, correction, or amendment to a statement of organization shall identify the paragraph containing the information to be changed, corrected, or amended.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

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R 169.27 Statement of organization; committee supporting candidates for state and federal office.

Rule 27. A committee supporting a candidate for federal office and a candidate for office in this state shall file a statement of organization for the committee of the candidate for office in this state.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.28 Dissolution statement.

Rule 28. (1) A committee which determines it will no longer receive contributions or make expenditures shall file a dissolution statement on a form prescribed by the secretary of state.

(2) A dissolution statement shall consist of a campaign statement that covers the period from the closing date of the last report filed to the date of dissolution, and shall include a statement as to the disposition of residual funds.

(3) A committee may not file a dissolution statement or report if it has assets or outstanding debts.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

PART 3. REPORTS, CONTRIBUTIONS, AND EXPENDITURES

R 169.31 Recording and reporting contributions from same donor.

Rule 31. A committee treasurer shall record and report each contribution from the same donor under the identical name used to record the original contribution.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.32 Reporting unpaid debts.

Rule 32. Unpaid debts of a committee shall be reported until paid or discharged.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.33 Expenditure; notation on receipt or cancelled check.

Rule 33. A receipt or cancelled check, or a copy thereof, which is used to vouch for an expenditure, shall have a notation on or attached thereto stating the purpose of the expenditure.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

R 169.34 In-kind contributions.

Rule 34. (1) The value of an in-kind contribution is the amount which could usually be received in the open market for goods and services. The value of an in-kind contribution, which is loaned or permitted to be used, is the fair market rental value of the item or services. A committee which is charged less than the fair market value or fair rental value of an item or services shall report the difference between the amount charged and the fair market value or fair rental value as an in-kind contribution.

(2) An in-kind contribution shall be declared as an expenditure at the same amount as the value assigned to it as a contribution. It shall be reported on the appropriate expenditure schedule and identified as an in-kind contribution. An in-kind contribution received during a reporting period shall be reported as an expenditure during the same reporting period.

History: 1954 ACS 91, p. 10, Eff. May 3, 1977.

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R 169.35 Contribution; corporate check.

Rule 35. A candidate committee treasurer shall not accept as a contribution a check written on a corporate account, except as provided in sections 54 and 55 of the act.

History: 1954 ACS 91, p. 11, Eff. May 3, 1977.

R 169.36 Printed material or other campaign media; identification or disclaimer; exemptions.

Rule 36. (1) Printed material relating to a candidate shall bear the identification or disclaimer, or both, provided in section 47 of the act in a place and in a print clearly visible to and readable by an observer. Any other medium used for campaign purposes shall clearly and unequivocally include the identification or disclaimer, or both, provided in section 47 of the act.

(2) Buttons, balloons, and similar campaign items, the size of which makes it unreasonable to add an identification or disclaimer, or both, are exempted from this rule.

History: 1954 ACS 91, p. 11, Eff. May 3, 1977.

R 169.37 Cash or cash equivalents on hand following election; reporting.

Rule 37. A committee which has filed with its statement of organization a sworn statement as provided in section 24(4) of the act and which, following an election, has cash or cash equivalents on hand shall, for the next ensuing election, report the same as "cash on hand at beginning of accounting period." The "cash on hand at beginning of accounting period" shall be a part of the aggregate receipts for the next ensuing election, but need not be further itemized.

History: 1954 ACS 91, p. 11, Eff. May 3, 1977.

R 169.38 Petty cash fund.

Rule 38. (1) A committee treasurer may establish a petty cash fund.

(2) A petty cash fund shall be established only from funds withdrawn from a committee account. It shall not be used for payment of salaries or wages.

(3) A person making payments from a petty cash fund shall maintain records of the amount and purpose of each expenditure, and deliver them to the committee treasurer.

History: 1954 ACS 91, p. 11, Eff. May 3, 1977.

R 169.39 Officeholder's expense fund.

Rule 39. (1) An elected officeholder shall indicate on the statement of organization, or on an amendment thereto, filed by the officeholder's candidate committee, the existence of an officeholder's expense fund or whether establishment of one is contemplated.

(2) Money given specifically to an officeholder's expense fund shall be designated for that purpose by the donor.

(3) Money received by an officeholder's expense fund shall be kept in a depository account separate from the candidate committee's funds.

(4) The treasurer of an officeholder's expense fund shall keep records of all receipts to, and disbursements from, the fund for a period of 1 year longer than the officeholder's term of office.

(5) Receipts to, and disbursements from, the officeholder's expense fund shall be reported pursuant to the provisions of the act.

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(6) The officeholder's expense fund report shall be signed by the treasurer of the fund and by the officeholder on the lines indicated following the verification statement.

(7) The officeholder's expense fund report shall be filed with the filing official designated by the act to receive the officeholder's candidate committee campaign statements.

(8) Money may be transferred from the candidate committee of an elected public official to the officeholder expense fund of that public official in accordance with the provisions of the act.

History: 1954 ACS 91, p. 11, Eff. May 3, 1977.

PART 4. STATE CAMPAIGN FUND

R 169.41 State campaign fund; reservation of funds.

Rule 41. On or before January 1 of each year in which an election for governor is held, the state treasurer shall:

(a) Reserve 3% of the funds available in the state campaign fund to make necessary adjustments required by formulas set forth in sections 65(2), 65(3), 65(4), and 65(5) of the act.

(b) Reserve the maximum amount that each candidate for governor of a major political party is entitled to receive for the general election.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

R 169.42 State campaign fund; payments to candidates.

Rule 42. The state treasurer, beginning on January 1 of each year in which an election for governor is held, shall make payment immediately from the state campaign fund to eligible candidates on the basis of candidate applications which have been approved by the secretary of state and forwarded to the state treasurer.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

R 169.43 Public funding of elections; qualifying contributions.

Rule 43. Qualifying contributions for public funding of the primary or general elections may be obtained from April 1 of the year preceding the year in which a governor is elected until December 31 of the year in which a governor is elected, or until the candidate committee files a dissolution statement, whichever occurs first.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

PART 5. COMPLAINTS AND INVESTIGATIONS

R 169.51 Complaint generally.

Rule 51. A person who believes a violation of the act or these rules has occurred may file a written complaint in person or by mail with the secretary of state.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

R 169.52 Complaint; form and contents.

Rule 52. (1) A complaint shall be typewritten or handwritten in ink. The complainant's name, address, and telephone number shall be typewritten or handprinted upon the complaint. A complaint shall include the following verification statement: "I certify that the statements set forth above are true to the best of my knowledge and belief." A complaint shall be signed by the complainant immediately following the verification statement.

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(2) A complaint shall name the alleged violator, set forth the alleged violator's address, describe in reasonable detail the alleged violation, and identify all available evidentiary material.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

R 169.53 Complaint; dismissal.

Rule 53. If, upon reading the complaint, the secretary of state determines a complaint is frivolous, illegible, indefinite, or unsigned, or does not identify an alleged violator, allege a violation of the act or these rules, or contain a verification statement, the secretary of state may summarily dismiss the complaint without prejudice. If a complaint is summarily dismissed, the complainant shall be notified in writing as to the reason the complaint was dismissed.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

R 169.54 Complaint; indication to person against whom allegation made.

Rule 54. If a complaint is not summarily dismissed, or if the secretary of state, upon examination of a report filed pursuant to the act, finds there may be reason to believe a violation of the act or these rules has occurred, the secretary of state shall indicate immediately, to the person against whom an allegation is made, the following:

(a) A complaint has been made alleging, or examination of a filed report indicates, possible violation of the act or these rules.

(b) The specifics of the alleged violation.

(c) The identity of the complainant if a complaint has been filed.

(d) The provisions of these rules relative to complaints and investigations.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

R 169.55 Preliminary review of alleged violation; dismissal of complaint; notice of informal hearing.

Rule 55. (1) The secretary of state, upon written complaint or examination of a report filed pursuant to the act, may conduct a preliminary review of an alleged violation to determine if there may be reason to believe a violation of the act or these rules has occurred.

(2) If, following a preliminary review, the secretary of state determines there is no reason to believe an allegation is true, the complaint shall be dismissed. The secretary of state shall notify the complainant and the person against whom an allegation has been made of this decision.

(3) If, following a preliminary review, the secretary of state determines there may be reason to believe an allegation is true, the person against whom the allegation is made and the complainant shall be notified that an informal hearing shall be held to determine whether there is reason to believe a violation of the act or these rules has occurred.

(4) The notice shall give the parties involved reasonable time to appear, if they choose to do so. The parties shall be notified of the time and place of the hearing, that they may appear in person or by counsel, and that they may give testimony.

History: 1954 ACS 91, p. 12, Eff. May 3, 1977.

R 169.56 Informal hearing; dismissal of complaint; notice of decision.

Rule 56. (1) If, following the informal hearing, the secretary of state determines there is no reason to believe a violation of the act or these rules has occurred, the complaint shall be dismissed. The parties shall be notified of this decision.

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(2) If, following the informal hearing, the secretary of state determines there is reason to believe a violation of the act or these rules has occurred, the secretary of state may notify the attorney general of the decision if the allegation was made as the result of a complaint. If the allegation was made as the result of an examination of a report filed pursuant to the act, the secretary of state shall notify the attorney general of the decision.

(3) If, following the informal hearing, the secretary of state determines not to report the hearing's results to the attorney general, the secretary of state shall notify the parties of this decision.

History: 1954 ACS 91, p. 13, Eff. May 3, 1977.

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DEPARTMENT OF TREASURY

REVENUE DIVISION

GENERAL SALES AND USE TAX RULES

(By authority conferred on the department of treasury by Act No. 167 of the Public Acts of 1933, Act No. 94 of the Public Acts of 1937, sections 3 and 13 of Act No. 122 of the Public Acts of 1941, as amended, and sections 9 and 83 of Act No. 380 of the Public Acts of 1965, being §§205.51 et seq., 205.91 et seq., 205.3, 205.13, 16.109, and 16.183 of the Michigan Compiled Laws)

R 205.1 Sales tax licenses.

Rule 1. (1) A Michigan sales tax license shall be obtained by every person selling tangible personal property at retail. (See also R 205.3, R 205.5, R 205.6, and R 205.7) A person shall not engage or continue in a business taxable under the sales tax law without securing a license, regardless of the amount of sales or the manner of obtaining goods for sale. An application for a license before or at the time of beginning business, shall be made to the revenue division of the department of treasury on the form prescribed by the department. All licenses shall be displayed in full view on the licensed premises. Penalties for failure to secure a license or for remaining in business without a valid sales tax license are prescribed by R 205.19.

(2) Every sales tax license expires on June 30 each year and shall be renewed by furnishing such information as the department may require, together with the annual license fee of $1.00. Regardless of the date a license is issued, it expires on the following June 30, and the fee charged for it is the same, even if the license is used only a portion of the year. Persons selling at retail at more than 1 location or place of business shall obtain a license for each location. If a valid license is lost or destroyed, it may be replaced without charge by notifying the department.

(3) A license is not transferable and a new license shall be secured immediately whenever there is a change of ownership of the business. For example, if a partner is added or dropped, or if a corporation is formed or dissolved, this constitutes a change of ownership necessitating application in the name of the new ownership for a sales tax license to sell at retail. If the new owner fails to apply for a license, that person may be subjected to penalty for operating without a valid sales tax license.

(4) The department reserves the right to deny a license to an applicant if the department considers the applicant to be the agent or representative of a principal required to be licensed and responsible for filing the monthly sales tax returns.

(5) Under the following circumstances the department shall require an applicant for a sales tax license to submit a surety bond of not less than $1,000.00, nor more than $25,000.00, payable to the state. At the discretion of the department, a cash bond may be accepted in lieu of the surety bond:

(a) If the applicant, at any previous time, has failed, refused, or neglected to pay a tax, interest, or penalty upon a tax due the state.

(b) If the applicant has ever attempted to evade payment of a tax, interest, or penalty by petition in bankruptcy.

(c) If the applicant is a corporation, and the department has reason to believe the corporation is under the management or control of a person who has failed to pay tax, interest, or penalty upon a tax.

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(d) Whenever the department deems it necessary to ensure the collection of the tax.

History: 1944 AC, p. 1314; 1954 AC, p. 901; 1954 ACS 29, p. 5, Eff. Feb. 14, 1962; 1954 ACS 88, p. 37, Eff. Aug. 6, 1976.

R 205.2 Business.

Rule 2. The term "business" includes all activities engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

History: 1944 AC, p. 1314; 1954 AC, p. 901.

R 205.3 Person.

Rule 3. The term "person" includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether organized for profit or not, company, estate, trust, receiver, trustee, syndicate, the United States, the state, a county or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

History: 1944 AC, p. 1314; 1954 AC, p. 901; 1954 ACS 78, p. 5, Eff. Mar. 1, 1974.

R 205.4 Imposition of tax.

Rule 4. There shall be collected from all persons engaged in the business of making sales of tangible personal property at retail, an annual tax for the privilege of engaging in such business equal to 4% of the gross proceeds thereof, less deductions allowed by law and indicated in these rules and regulations. (Need to stress records of persons engaged in more than one type of business.) When one and the same person is engaged in both taxable and nontaxable businesses separate books and records must be maintained. In the absence of such separate records entire proceeds from both businesses must be taxed.

History: 1944 AC, p. 1314; 1954 AC, p. 901; 1954 ACS 26, p. 17, Eff. May 15, 1961.

R 205.5 Tangible personal property.

Rule 5. Tangible personal property embraces all goods, wares, merchandise, products and commodities, all tangible things and substances which are dealt in, capable of being possessed and exchanged.

History: 1944 AC, p. 1314; 1954 AC, p. 902.

R 205.6 Retailer.

Rule 6. The term "retailer" includes all persons who sell to the last or final buyer, user or consumer. Manufacturers, jobbers, wholesalers and others are subject to the sales tax, if sales are made by them to the ultimate user or final buyer.

History: 1944 AC, p. 1315; 1954 AC, p. 902.

R 205.7 Sales at retail.

Rule 7. The term "sale at retail" means any transaction by which is transferred for consideration the ownership of tangible personal property, when such transfer is made in the ordinary course of the transferor's business and is made to the transferee for consumption or use, or for any other purpose than for resale in the form of tangible personal property, except as provided in these rules and regulations.

History: 1944 AC, p. 1315; 1954 AC, p. 902.

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R 205.8 Consumer.

Rule 8. (1) "Consumer" means the person who shall have purchased tangible personal property for storage, consumption or use.

(2) A "consumer" is further defined as a person who does not purchase goods for sale. The buyer who disposes of goods in any other manner than by resale becomes the final consumer. He is the last person in the chain of transactions to make a purchase. The seller, who is the taxpayer under the sales tax act, is also the consumer for such articles used or consumed in the conduct of his business and sales made to him for his consumption or use are taxable. The fact that a person may be licensed by this department to sell at retail does not in itself exempt sales to such licensee.

History: 1944 AC, p. 1315; 1954 AC, p. 902.

R 205.9 Sales for purposes of resale.

Rule 9. Sales for purposes of resale include sales of tangible personal property not to be consumed or used by the immediate purchaser, but to be resold in the regular course of business by the purchaser; provided that property purchased for resale purposes which is not resold, but is used or consumed by the purchaser, is taxable on the delivered cost to the purchaser who shall remit the tax to the state.

History: 1944 AC, p. 1315; 1954 AC, p. 902.

R 205.10 Gross proceeds.

Rule 10. The term "gross proceeds," "gross sales," or "gross receipts" used herein means the total of all sales made during a given month or period. It means the amount received or to be received in money, credits, subsidies, property or other money's worth in consideration of sales at retail within this state, without any deduction on account of the cost of the property sold, the cost of materials used, the cost of labor or services purchased, amount paid for interest or discounts, taxes paid on beer and liquor at time of purchase, or any other expenses whatsoever, nor shall any deduction be allowed for losses. When credits, property or other money's worth become or becomes all or part of the consideration then the dollar value of such credits, property or other money's worth must be determined and made a part of the seller's records. Such determination is only acceptable for sales tax purposes when the dollar value is not less than the wholesale dollar value of the trade-in at the time of making the previously mentioned retail sale.

History: 1944 AC, p. 1315; 1944 ACS 13, p. 12; 1954 AC, p. 902; 1954 ACS 69, p. 14, Eff. Nov. 1, 1971.

R 205.11 Determination of tax.

Rule 11. (1) Sellers of tangible personal property must determine when sales are made whether the buyer purchases such goods for use or for resale. When sale for resale has been determined, the department rules that the seller must secure the sales tax license number issued to the purchaser and hold such number on file for reference when called upon to furnish proof of exemption from the tax. The securing of sales tax license numbers of purchasers, however, must not lead to the assumption that all sales made to such licensees are to be for resale. For example, coal to retail merchants for heating stores, mops and brooms to restaurants, soap and towels to automobile dealers, etc., are clearly sales for consumption and use and not for resale and are subject to the tax. The liability for payment of tax rests with the seller. Any claim for exemption must be proven by the person claiming exemption. On all sales the final use of the article sold determines the tax liability.

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The article itself or the nature of the purchaser's business does not determine whether the sale is taxable or exempt.

(2) Sellers of tangible personal property to "industrial processors" or "agricultural producers" shall determine at the time of sale whether the particular sales are exempt by consulting these rules and regulations (R 205.51 and R 205.90) or by submitting the facts to the department for an opinion. The seller is held responsible for the tax on all taxable sales and therefore he should be very careful in determining which sales are not taxable. It is essential that the seller, the buyer and the department shall know which sales were for "industrial processing" or "agricultural producing" or are otherwise exempt.

(3) The department will not attempt to prescribe the method the seller shall adopt, but he is required to justify deductions under the exemptions granted in the sales tax act. The seller may secure from the buyer a certificate or other evidence that the sales are entitled to exemption, but a certificate of sale shall not relieve the retailer from tax liability should it be established that the sales were taxable.

(4) Retailers frequently will be called upon to define what is taxable and the department requests that in all cases of doubt the questions be submitted to it for clarification.

History: 1944 AC, p. 1315; 1954 AC, p. 903.

R 205.12 Statutory deduction.

Rule 12. (1) The taxpayer is allowed a deduction from the gross proceeds of his sales at a rate of $50.00 for any 1 month. When a business operates less than a full month, the statutory deduction shall be computed at the rate of $1.64 per day. A carry-over of all or part of this statutory deduction for use on a succeeding return is not permissible.

(2) The use tax act does not provide for a statutory deduction to registrants.

History: 1944 AC, p. 1316; 1954 AC, p. 903; 1954 ACS 28, p. 17, Eff. May 15, 1961.

R 205.13 Casual or isolated sales.

Rule 13. (1) Sales at retail shall not include an isolated transaction made other than in the ordinary course of repeated and successive transactions of a like character. Examples: A person sells his household furniture, a farmer sells his farm machinery or other farm equipment, a merchant sells his cash register, counters or other store fixtures at auction or otherwise. Such sales are "casual or isolated transactions" and are not subject to tax. However, any person who in any manner or at any time advertises, solicits or offers tangible personal property for sale for the purpose of repeated sales is deemed to be regularly engaged in business and his sales are not considered casual or isolated, even though they may be few or infrequent.

(2) Vehicles, airplanes, snowmobiles and watercraft acquired in an isolated transaction from a person not a retailer are subject to use tax. The use tax on vehicles, snowmobiles and watercraft shall be paid to the secretary of state prior to the transfer of a vehicle title, snowmobile registration or watercraft registration. The use tax on airplanes shall be paid directly to the department of revenue by the purchaser.

(See R 205.135. Isolated vehicle, aircraft, watercraft, and snowmobile transfers.)

History: 1944 AC, p. 1316; 1954 AC, p. 903; 1954 ACS 29, p. 5, Eff. Feb. 14, 1962; 1954 ACS 42, p. 5, Eff. May 15, 1965; 1954 ACS 78, p. 5, Eff. Mar. 1, 1974.

R 205.14 Tax returns.

Rule 14. (1) The sales and use taxes are a personal obligation of the seller (taxpayer) and are due and payable on or before the fifteenth day of the month

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next succeeding the month in which the tax accrued. The commissioner of revenue may require filing of returns on other than a monthly basis. The taxpayer shall make out a tax return for the preceding month on the form required by the department, showing the amount of the tax for which he is liable and mail the return, together with a remittance for the amount of the tax, payable to the state of Michigan, to the address as indicated on the return, on or before the fifteenth day of the month. The return shall be signed by the taxpayer or the duly authorized agent of the taxpayer.

(2) A person engaged in business in 2 or more places, when the business or businesses are taxable, shall file a consolidated return covering all of that person's sales within this state. A person who is obligated to file a consolidated return is entitled to only 1 statutory exemption of $50.00 a month.

History: 1944 AC, p. 1816; 1954 AC, p. 903; 1954 ACS 26, p. 17, Eff. May 15, 1961; 1954 ACS 69, p. 14, Eff. Nov. 1, 1971; 1954 ACS 88, p. 37, Eff. Aug. 6, 1976.

R 205.15 Trade-in deduction.

Rule 15. (1) No deduction from the gross proceeds of a sale is permitted for any credit allowed by the seller for a trade-in taken in exchange or part payment and the tax applies to the full selling price.

(2) The retail sale of used tangible personal property which has been acquired by the seller by purchase is taxable upon the full selling price. When an article acquired by the taxpayer by trade-in is sold, this sale also is taxable on the full selling price.

(3) No deduction for a trade-in may be taken under any circumstances in computing the use tax.

History: 1944 AC, p. 1316; 1954 AC, p. 904; 1954 ACS 78, p. 5, Eff. Mar. 1, 1974.

R 205.16 Returned goods.

Rule 16. (1) Credits or refunds for returned goods, the sales of which have been subject to tax, may be deducted only if the goods are voluntarily returned for full exchange, an entire refund of purchase price, or full credit. When the property is returned within a reasonable time after the date of sale, and the purchase is made whole, a credit may be had on the tax paid on the rescinded sale. The term "returned goods" does not include repossession or recapture of merchandise by legal process, abandonment of contract, voluntary surrender of goods without an entire refund, or full credit being given for the amount paid or for goods accepted in trade or barter.

(2) A rehandling charge by the seller in connection with returned goods is not deemed to be a reduction of the purchase price for refund purposes unless the charge includes cost attributable to use of the returned goods by the purchaser.

History: 1944 AC, p. 1316; 1954 AC, p. 904; 1954 ACS 88, p. 37, Eff. Aug. 6, 1976.

R 205.17 Remittance of tax.

Rule 17. All remittances of sales and use taxes shall be made to the department by bank draft, check, cashier's check, money order, certificate of deposit or money. No remittance other than cash shall be a final discharge of liability for the tax unless and until it has been paid in cash.

History: 1944 AC, p. 1316; 1954 AC, p. 904.

R 205.18 Tax lien and successor liability.

Rule 18. (1) The sales and use tax, interest, penalties and costs that may accrue in addition thereto shall be a lien in favor of the state against all property and

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rights of property, both real and personal, then owned or afterwards acquired by any person liable therefor. (See R 205.3) The lien attaches to the property from and after the date such tax is due and payable to the state. The lien takes precedence over all other liens and encumbrances except previously recorded bona fide financing.

(2) Officers of a corporation having control, supervision of, or charged with the responsibility of making and paying sales and use tax returns can be held personally liable for any unpaid corporate deficiency. Dissolution of a corporation does not discharge the officers' liability.

(3) If any person liable for tax sells his business or stock of goods or quits the business, he shall make a final return within 15 days after the date of selling or quitting business. His successor or succeeding successors, if any, shall withhold sufficient purchase money to cover the due and unpaid taxes, interest and penalties until the former owner produces a receipt or acknowledgment from the department showing that they have been paid or a certificate stating that no taxes are due. If the purchaser or succeeding purchasers of a business or stock of goods fails to withhold purchase money, he is personally liable for payment of the unpaid taxes, interest and penalties due from the former owner.

History: 1944 AC, p. 1316; 1954 AC, p. 904; 1954 ACS 69, p. 15, Eff. Nov. 1, 1971; 1954 ACS 78, p. 5, Eff. Mar. 1, 1974.

R 205.19 Sales tax penalties and interest.

Rule 19. The following penalties are prescribed by law:

(a) For failure to secure a license or for continuing in business after a license expires or has been suspended: a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both.

(b) For failure to file a return on time or pay the tax due: 5% of the tax due, plus 5% per month for each additional month or fraction thereof, up to a maximum of 25%, or a penalty of $5.00, whichever amount is greater, plus interest at ¾ of 1% per month.

(c) For failure to file an information return, or an information report, as required by the act: $5.00 per day, up to a maximum of $200.00.

(d) For filing a false or fraudulent return, with an intent to defraud the state, or for aiding or abetting another in the evasion of the tax: a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both.

(e) For failure to file a correct current return: ¾ of 1% interest per month from the time the tax is due.

(f) For negligence or intentional disregard of the sales tax act or the rules and regulations of the department: ¾ of 1% interest per month, from the time the tax is due, plus 10% of the tax deficiency.

(g) For fraudulent intent to evade the tax: 100% of the tax deficiency, plus interest at 1% per month.

(h) For a person designing to evade the tax by departing from the state or removing property therefrom, for concealing himself or property, or for doing any other act tending to render ineffectual proceedings to collect the tax: jeopardy assessment and warrant.

History: 1944 AC, p. 1317; 1954 AC, p. 904; 1954 ACS 26, p. 17, Eff. May 15, 1961; 1954 ACS 88, p. 38, Eff. Aug. 6, 1976.

R 205.20 General application.

Rule 20. For the convenience of the taxpayer these rules and regulations are indexed, usually with reference to particular lines of business. The taxpayer is responsible for obtaining knowledge of all rules and regulations affecting his liability for tax, in order that the proper amount of tax can be ascertained and paid

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to the state. These rules and regulations must be read and interpreted in their entirety rather than merely acquainting yourself with a rule briefly stated pertaining to your particular type of business.

History: 1944 AC, p. 1317; 1954 AC, p. 905; 1954 ACS 26, p. 18, Eff. May 15, 1961.

Editor's note: Former R 205.20 was abrogated by 1954 ACS 26, p. 18. Former R 205.21 was renumbered by 1954 ACS 26, p. 18, to appear as present R 205.20.

R 205.21 Sales tax included in gross sales and collection bracket.

Rule 21. (1) A taxpayer shall include the sales tax as part of the selling price of tangible personal property sold by the taxpayer. The taxpayer is not required to state the tax as a separate item to the consumer, but may not advertise or hold out to the public in any manner, directly or indirectly, that the tax is not considered as an element in the price to the consumer.

(2) The following brackets shall be used by retailers in determining the amount to be added to the sale price for reimbursement purposes:

Sale of	1 cent	to	12 cents	0
Sale of	13 cents	to	31 cents	1 cent
Sale of	32 cents	to	54 cents	2 cents
Sale of	55 cents	to	81 cents	3 cents
Sale of	82 cents	to	$1.08	4 cents
Sale of	$1.09	to	$1.35	5 cents
Sale of	$1.36	to	$1.62	6 cents

On each further addition of 25¢ to the sale price, 1 additional cent may be collected. A person, other than the state, shall not enrich himself from the collection of the sales tax, nor shall use of the bracket system relieve the retailer from having to remit to the state any excess of tax collected.

(3) When the taxpayer's gross proceeds from sales include sales tax collected and when the gross proceeds, including the tax, are entered as gross sales on the tax return, then the taxpayer may deduct from the gross sales the amount of tax included therein, if it is shown as a separate deduction on the taxpayer's return. Only under these conditions, however, may the taxpayer take such a deduction, and then only in the following manner:

(a) Show the total gross sales, including sales tax, opposite item no. 1 on the return.

(b) Subtract from item no. 1 the amount of the nontaxable deductions, excluding the $50.00 statutory exemption, to arrive at the net sales.

(c) Divide the net sales as obtained by 104 to arrive at 1%, then multiply by 4 to obtain the amount of the tax included in the gross sales, which amount shall be shown as a separate deduction on the return and described as "sales tax included in gross sales."

History: 1944 AC, p. 1312; 1954 AC, p. 905; 1954 ACS 26, p. 18, Eff. May 15, 1961; 1954 ACS 42, p. 5, Eff. May 15, 1965; 1954 ACS 88, p. 38, Eff. Aug. 6, 1976.

Editor's note: Former R 205.22 was renumbered by 1954 ACS 26, p. 18, to appear as present R 205.21.

R 205.22 Discounts.

Rule 22. (1) Cash, trade, and quantity discounts to customers are deductible in arriving at the net sale price which is taxable. Such discounts must appear on the invoices, records and accounts of the retailer and be substantiated to the satisfaction of the department.

(2) Trade and quantity discounts are usually known and available to the purchaser at the time of sale, and are deductible immediately on the invoice before determining the tax. A cash discount is usually offered by the seller as an inducement for payment within a specified time and may not be deducted by the

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seller until it has been given to the purchaser. Such discounts will be allowed as a deduction on the seller's tax return when there is sufficient evidence in the records of the taxpayer to indicate that such discounts have been the regular policy of the seller and have been given to the purchaser.

History: 1944 AC, p. 1318; 1954 AC, p. 905; 1954 ACS 26, p. 18, Eff. May 15, 1961.
Editor's note: Former R 205.23 was renumbered by 1954 ACS 26, p. 18, to appear as present R 205.22.

R 205.23 Records.

Rule 23. (1) The department, through its field auditors and other employees, may examine the books, records and papers of any person liable for payment of the sales and use taxes. It may issue a subpoena requiring any person to appear for examination and produce any books, records or papers within the scope of the inquiry.

(2) It is the duty of every person engaging in any business subject to the tax to keep and preserve suitable and adequate records of his business to enable such person, as well as the state, to determine the correct amount of the tax for which he is liable.

(3) Failure to produce and keep records for the purpose of examination by the department will be considered willful noncompliance with the sales tax law and subject to its penalties. In the absence of sufficient records the department may determine the amount of tax due the state by using any information available whether obtained at the taxpayer's place of business or from any other sources, and assess the taxpayer for any deficiencies, plus penalties.

(4) Licensees are required to keep complete and accurate daily records of all sales, whether for cash or credit, bartered or traded, irrespective of whether the seller regards the receipts from the sales as taxable or exempt. The taxpayer is also required to keep a complete and accurate record of beginning and ending inventories, purchase records, daily sales records, receipts, invoices, bills of lading and all other pertinent documents pertaining to the business.

(5) If the seller claims sales for exemption on certain sales, it shall be required that he will keep a record of the name and address of the person to whom the sale is made, the date of the sale, the article purchased, the amount of the exemption and the use to be made of the article sold. If exemption is claimed by reason of a sale for resale, the taxpayer shall obtain the sales tax license number of the purchaser.

(6) Records and files shall be kept on the premises of the place of business and maintained in a legible manner. They shall also be kept clean and as much as possible free from deterioration. All invoices, sales slips, bank statements and canceled checks should be kept in chronological order so as to be balanced with the records to which they pertain.

(7) Any person not having his principal place of business in Michigan but maintaining within this state a branch store, warehouse or distributing depot for the sale or distribution of tangible personal property is required to keep complete records showing all sales made within the state. If such records are not located in Michigan, then the seller must defray the additional expense incurred by the state in making an audit at the out-of-state location of the seller. Sellers desiring to follow the latter method must make suitable arrangements with the department.

History: 1944 AC, p. 1318; 1954 AC, p. 906; 1954 ACS 26, p. 18, Eff. May 15, 1961.
Editor's note: Former R 205.24 was renumbered by 1954 ACS 26, p. 18, to appear as present R 205.23.

R 205.24 Taxpayer.

Rule 24. The word "taxpayer" means any person liable for any tax hereunder.

History: 1944 AC, p. 1318; 1954 AC, p. 906; 1954 ACS 26, p. 18, Eff. May 15, 1961.
Editor's note: Former R 205.25 was renumbered by 1954 ACS 26, p. 18, to appear as present R 205.24.

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R 205.25 Tax.

Rule 25. The word "tax" shall include all taxes, interest, or penalties levied under this act.

History: 1944 AC, p. 1318; 1954 AC, p. 906; 1954 ACS 26, p. 18, Eff. May 15, 1961.
Editor's note: Former R 205.26 was renumbered by 1954 ACS 26, p. 18, to appear as present R 205.25.

R 205.26 Use tax registration.

Rule 26. (1) The following activities require a registration under the use tax act:

(a) An out-of-state seller, not registered as a retailer under Act No. 167 of the Public Acts of 1933 (sales tax act), actively soliciting sales of tangible personal property in Michigan. (See section 5 of Act No. 94 of the Public Acts of 1937, as amended.)

(b) A Michigan consumer buying tangible personal property from nonregistered sellers. (See section 6 of Act No. 94 of the Public Acts of 1937, as amended.)

(c) A lessor of tangible personal property when rental receipts are taxable under Act No. 94 of the Public Acts of 1937, as amended. (See R 205.132)

(d) A seller of intrastate communication services. (See R 205.110)

(e) A seller of rental accommodations to the public. (See R 205.88)

(2) An application for a use tax registration shall be obtained from the department of revenue upon a form prescribed by the department. A license fee is not required.

(3) A use tax registration is not transferable from 1 ownership to another. For example: if a partner is added or dropped, or if a corporation is formed or dissolved, this constitutes a change in ownership necessitating an application in the name of the new ownership for another registration.

(4) Registration under the use tax act requires the filing of monthly, quarterly or annual tax returns on forms furnished and pre-identified by the department. Failure to register and file returns can subject the taxpayer to heavy penalties.

History: 1944 AC, p. 1318; 1954 AC, p. 906; 1954 ACS 26, p. 19, Eff. May 15, 1961; 1954 ACS 29, p. 6, Eff. Feb. 14, 1962; 1954 ACS 69, p. 15, Eff. Nov. 1, 1971.
Editor's note: Former R 205.26 was renumbered by 1954 ACS 26, p. 18, to appear as present R 205.25.

R 205.27 Use tax penalties and interest.

Rule 27. The following penalties are prescribed by law:

(a) For failure on the part of a "seller" to register with the department: a fine of $25.00 for each day the failure continues, after the seller has been notified by the department that the seller is required to register under the act. Upon conviction for failure to file a return, or pay the tax due, a seller shall be fined not less than $100.00 nor more than $500.00. If convicted for a second or subsequent offense, the fine shall be not less than $500.00 nor more than $5,000.00.

(b) For failure to file a return on time or to pay a tax due: 5% of the tax due, plus 5% per month for each additional month or fraction thereof, up to a maximum of 25%, or a penalty of $5.00, whichever amount is greater, plus interest at ¾ of 1% per month.

(c) For failure to file an information return, or an information report, as required by the act, within the time specified, $5.00 per day, up to a maximum of $200.00.

(d) For failure to file a correct current return: ¾ of 1% interest per month, from the time the tax is due.

(e) For negligence or intentional disregard of the use tax act or the rules and regulations of the department: ¾ of 1% interest per month, from the time the tax is due, plus 10% of the tax deficiency.

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(f) For fraudulent intent to evade the tax: 100% of the tax deficiency, plus interest at 1% per month.

(g) For failure on the part of a "consumer" to pay the full and exact tax required under the act: a fine of not less than $500.00, nor more than $5,000.00, or imprisonment for 1 year, or both.

History: 1954 ACS 26, p. 19, Eff. May 15, 1961; 1954 ACS 68, p. 39, Eff. Aug. 6, 1976.

R 205.28 Use tax included in gross proceeds.

Rule 28. The use tax act requires a seller to collect use tax as a separate item and forbids the including of such charge as part of the sales price. Therefore, a deduction cannot be taken, computed on the "tax in gross" method, and only that portion of the gross proceeds that represents use tax actually collected can be deducted on the monthly return.

History: 1954 ACS 26, p. 20, Eff. May 15, 1961.

SPECIFIC SALES AND USE TAX RULES

R 205.51 Agricultural producing.

Rule 1. (1) For the purpose of this rule, "agricultural producing" means the commercial production, for sale, of crops, livestock, poultry, and other products by persons regularly engaged in business as farmers, nurserymen, or agriculturists.

(2) Sales of tangible personal property are subject to the sales or use tax under this rule, if the sales are to persons other than those specified in subrule (1), or if the sales are made to persons specified in subrule (1), but the property is used or consumed by those persons for a purpose other than the commercial production of agricultural products for sale.

(3) Sales to farmers of fuel, clothing, and all other tangible personal property for personal living or human consumption or use are taxable. Sales of tangible personal property to all persons are taxable when the property is used in producing food or other products for personal consumption and not for sale.

(4) All sales to persons using land, but not included in the definition of "agricultural producing" in subrule (1), are taxable. For example, a mowing machine is taxable when sold to the operator of a riding stable for use in cutting hay to be fed to the operator's riding horses. The sale of the machine is exempt, however, if made to a person regularly engaged in business as a farmer for use in cutting hay to be fed to the farmer's work horses or cattle.

(5) Sales of the following are exempt only when used in "agricultural producing" as defined in subrule (1):

(a) Seeds and other propagative portions of plants.

(b) Fertilizer and similar substances for improving quality of the soil.

(c) Spray materials for insecticides, germicides, and fungicides.

(d) Livestock, poultry, their feeds, and foodstuffs, including salt, bone meal, cod liver oil, limestone, grit, oyster shell, and other similar substances used to sustain animals or poultry.

(e) Sacks, wrappers, and other nonreturnable containers resold with crops; also, binding twine and baling wire.

(f) Machinery, tools, other equipment, repair parts, motor fuel, oil, grease, and other tangible personal property necessary for their operation and maintenance, except that sales of such equipment are taxable under the following circumstances:

(i) If the equipment is to be attached to and becomes a part of real estate.

(ii) If a motor vehicle is used on a public highway and is required by the motor vehicle law to have registration license plates.

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(iii) Gasoline, oil, tires, and parts for a motor vehicle specified in paragraph (ii).

(g) Electricity or gas used directly in producing agricultural products. When a separate meter is not installed for recording exempt electrical use, an allocation for exemption may be utilized if the total electrical consumption exceeds 1,500 kwh per month, or 2,500 kwh per month for homes with electric heat during the months of November to March. (See R 205.115)

(6) Sales of all tangible personal property used to improve real estate, or attached to and becoming a structural part of real estate, are taxable. Sales of tangible personal property consumed or used in the construction, alteration, repair, or maintenance of houses, barns, water supply systems, fences, drains, and all other structures and appurtenances forming a part of real estate are taxable. Readily movable equipment, such as portable hog houses and feeding troughs, is not considered a part of real estate and is not taxable if used in commercial agricultural producing. Sales of tangible personal property used in clearing land of trees, stumps, and rocks or used in ditching, tiling, or otherwise improving real estate are taxable.

(7) Sales of seed, fertilizer, equipment, and all other tangible personal property to anyone for use on homes or other noncommercial gardens, lawns, parks, boulevards, and golf courses or for use by landscape gardeners are taxable.

(8) Every person, including farmers, nurserymen, and agriculturists, who sells tangible personal property, other than food at retail, to persons for consumption or use, and not for resale, shall obtain a sales tax license and pay the tax to the state on the entire gross proceeds from those sales. It is immaterial whether the retail sales are made at the place of production, a roadside stand, a market, from a vehicle, or elsewhere.

(9) A retail sale of tangible personal property used for agricultural production may be deducted from gross proceeds before computation of the tax if, at the time of sale, the following certificate is signed by the purchaser:

CERTIFICATE UNDER AGRICULTURAL PRODUCING EXEMPTION

The undersigned hereby certifies that all items, except as indicated hereon, are purchased for use or consumption in connection with the production of horticultural or agricultural products as a business enterprise, and agrees to reimburse the seller the sales tax if used or consumed otherwise.

DATE_____ SIGNED _____
Purchaser

ADDRESS _____

Unlawful use of this certificate subjects persons to the penalties of the sales tax act.

(10) A deduction for sales in agricultural producing shall not be taken from gross sales for agricultural production in the absence of an executed exemption certificate, as specified in subrule (9), covering each deductible sale. A blanket or so-called standing or continuous certificate is not acceptable, except for continuous sales of utilities wherein the taxability for consumption does not change from month to month. More than 1 item upon which a claim for exemption is made may be covered by 1 certificate if all the items are purchased at the time of the given sale. Taxable and nontaxable sales may be listed on the sales invoice, if taxable items are indicated. For example, the letter "T" may be placed before a taxable item.

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(11) Separate copies of the certificate may be used by sellers, or the wording may be imprinted or rubber stamped on sales invoices. All language expressed in the certificate shall be used. The date of purchase or address of the purchaser may be made to appear anywhere on the invoices; however, provision for the signature of the purchaser shall follow the wording of the certificate. Selection of the size of type used in the preparation of certificates is discretionary.

(12) A deduction for agricultural producing shall not be considered in the absence of the seller being in possession of executed certificates.

History: 1944 AC, p. 1318; 1954 AC, p. 908; 1954 ACS 69, p. 15, Eff. Nov. 1, 1971; 1954 ACS 88, p. 39, Eff. Aug. 6, 1976; 1954 ACS 100, p. 57, Eff. July 27, 1979.

R 205.52 Antiques, works of art, and artists.

Rule 2. Sales of antiques and works of art are taxable, without deductions for trade-in values or expenses of any kind. If the seller is regularly engaged in the business of selling antiques or works of art, his sales are taxable, regardless of the infrequency of the sales.

History: 1944 AC, p. 1319; 1944 ACS 31, p. 15; 1954 AC, p. 908; 1954 ACS 88, p. 41, Eff. Aug. 6, 1976.

R 205.53 Auctioneers, agents, factors, and brokers.

Rule 3. (1) Auctioneers, agents, factors, brokers, etc., selling tangible personal property on a repeated basis from a fixed location, are retailers regardless of whether the sales are on their own behalf or for a principal.

(2) Where an auctioneer is engaged by a manufacturer, farmer or householder to act as his agent in selling tangible property at the premises of the manufacturer, farmer or householder, the auctioneer will not be liable for sales tax on such sales unless the auctioneer actually purchases the merchandise and then sells the property acquired on his own behalf.

History: 1944 AC, p. 1319; 1954 AC, p. 908; 1954 ACS 28, p. 20, Eff. May 15, 1961.

R 205.54 Automobile and other vehicle dealers.

Rule 4. (1) Sales of new and used automobiles, buses, trucks, tractors, trailers, housetrailers, motorcycles, motor scooters, and other vehicles for consumption or use are subject to the tax on the full original retail sales price without any deductions for federal taxes, freight, handling, delivery, commissions, trade-ins, repossessions, advertising, future free service, or any expense incurred as part of the cost of doing business.

(2) The sales tax shall be paid to the secretary of state at the time application for title is submitted by the dealer. Vehicle transfers between individuals are subject to use tax to be paid to the secretary of state at the time application for title is submitted by the purchaser.

(3) When a vehicle is sold by a dealer the same delivered selling price, together with the amount of sales tax to be paid to the secretary of state, shall be indicated on the invoice, sales order, the statement of Michigan retail sales tax paid (form RD 108), and on the records of the dealer. Authorized discounts are deductible only when given to the purchaser at the time of sale and shown on the invoice, sales order, the statement of sales tax paid (form RD 108), and on the records of the dealer.

(4) The sale of a vehicle for delivery and use outside Michigan is exempt if all the following conditions exist:

(a) The dealer, in order to consummate a sale, must deliver and assume all responsibility for delivery without knowledge that such vehicle will be returned to Michigan except for a temporary use therein.

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(b) Title to the vehicle passes to the purchaser at a point outside the state.

(c) A Michigan vehicle title and license are not required.

(d) The dealer's records substantiate each of the 3 preceding facts.

(5) A dealer may claim exemption on the sale of a new or used vehicle when the purchaser will license and title the unit for use in another state. To obtain such an exemption, the purchaser shall qualify for a special registration issued by the secretary of state and appear in person, or by power of attorney, at an office of the secretary of state to attest that he is the bona fide purchaser and that the vehicle is dedicated for use in another state. If the purchaser later returns the vehicle to Michigan for registration, a use tax will apply on the value of the vehicle at that time.

(6) Vehicles which will be used in Michigan for a period of more than 30 days are subject to sales tax irrespective of whether the purchaser may be a legal resident of Michigan or whether the vehicle will be titled in another state except when purchaser is an active nonresident military person, a sworn statement of nonresidency is furnished by his commanding officer and the vehicle is titled and registered by the purchaser in his state of residency or domicile.

(7) When a vehicle that has been sold is returned to the dealer voluntarily by the purchaser and the dealer refunds the full amount of money or other consideration given by the purchaser, the dealer may receive a refund or credit for the amount of sales tax paid to the state, but only by submitting an affidavit in the following form:

APPLICATION

For credit or refund of sales tax paid on motor vehicle which through mistake, defect or nonconformity to order or specification was voluntarily returned within a reasonable time from date of sale for full exchange, refund of total purchase price or full credit.

COUNTY OF _____ }
STATE OF MICHIGAN } ss.

_____ first being duly sworn deposes and says that he was the purchaser of the described motor vehicle and that he voluntarily returned the same to the dealer because _____ and that the contract of purchase was mutually canceled, a complete return made of the purchase consideration, together with a refund of all purchased monies, including the payment of $_____ made to cover the Michigan state tax on the purchase.

_____
Purchaser

Subscribed and sworn to before me this
_____ day of _____ , A.D. 19____

_____
Notary Public, _____ County, Michigan
My Commission expires _____

INFORMATION DATA TO BE SUPPLIED BY DEALER

Purchaser_____ Address_____ City_____
Make of car_____ Motor No._____ Serial No._____ Year_____
License plates_____ Date of sale_____ Title No._____
Title now in name of _____ Actual selling price $_____
Included in gross sales for month of _____ Amount upon which sales tax was computed $ _____ Amount of sales tax $_____ remitted to Secretary of State (Branch) _____ on day _____ month _____, 19____

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I or we certify that the described motor vehicle was not repossessed, surrendered or recaptured by legal process or threat of same or voluntarily returned because of abandonment of contract and further certify that the purchaser's affidavit and the purchase information data are true.

_____
Dealer

Sales tax license No._____ Secretary of State license No._____

(8) Upon the sale of a new or used vehicle, the tax applies to the total amount of the sale and no deduction is allowed for another vehicle taken in trade on such transaction. The total amount of the sale means the amount received in money, credits, property or other money's worth. When credits, property or other money's worth becomes all or part of the consideration, then the dollar value of such credits, property or other money's worth must be determined and made a part of the seller's record. For sales tax purposes the trade in value of a vehicle shall not be less than its wholesale dollar value at the time of trade. The dealer may use, as a guide, the wholesale dollar value as shown in the current issue of any nationally recognized used vehicle guide for financial institution appraisal purposes in Michigan. However, when such traded in vehicle is resold, the sales tax applied to the full amount of the sale of such traded in vehicle and not upon the amount originally allowed for the trade-in.

(9) Each franchised new car dealer shall be allowed a certain number of tax-free demonstrators in accordance with the total number of new cars and trucks sold in a calendar year as follows:

Zero to 25 ..... 2 tax-free demonstrators
26 to 100..... 7 tax-free demonstrators
101 to 500.....20 tax-free demonstrators
501 or more.....25 tax-free demonstrators
(Maximum allowable for each calendar year).

(10) To qualify as a demonstrator the vehicle shall be titled in the name of a dealer upon submission of an affidavit in the following form:

ORIGINAL TO SECRETARY OF STATE
AFFIDAVIT TO LICENSE AND TITLE A DEMONSTRATOR
(Subsection (h) Section 1—Sales Tax Act)

State of Michigan
County_____ Sales Tax License No._____

The undersigned for and in behalf of _____ (dealer's name), makes oath that the following facts are true:

a. This dealership sells the following makes of new cars and trucks

_____

and such dealer has sold _____ during the current calendar year or has
number
sold _____ during the prior calendar year, and
number

b. in this calendar year (January 1 through December 31) this is the _____ (number) affidavit that has been executed and filed with the Secretary of State for purpose of titling and licensing a demonstrator, and

c. this car or truck which is to be titled and licensed as a demonstrator is identified as follows:

Make_____ Engine_____ Body_____ Serial_____
Year_____ Demonstrator No._____
Signature of Owner _____

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Signature and title of person signing for firm or corporation. State title exactly—as president, partner, district manager, etc.
Subscribed and sworn to before me this _____ day of _____, A.D., 19_____
_____ My Commission expires _____
Notary Public, County, Michigan

(11) Vehicle dealers may also be engaged in the business of leasing vehicles wherein the use tax will apply on rental income. It is not necessary that a dealer have a separate use tax registration to report tax on such rentals unless the ownership of the leasing company is different from that of the dealership. It is required, however, that the rental income be reported in the use tax column of the combined sales and use tax return. Dealers leasing vehicles to salesmen or employees will be required to remit use tax on a base rental figure which cannot be less than their monthly costs of ownership. This would include depreciation, finance charges, insurance charges and any other incidental costs involved in operating the vehicle. (See R 205.132—Rentals.)

(12) The annual surety bond required of each new and used vehicle dealer under the Michigan vehicle code shall provide for indemnification or reimbursement to the state for sales or use tax deficiencies for the year in which the bond was in effect upon the entry of a final judgment in a court of record against the dealer.

History: 1944 AC, p. 1320; 1944 ACS 13, p. 12; 1944 ACS 14, p. 10; 1944 ACS 31, p. 15; 1954 AC, p. 908; 1954 ACS 7, p. 5, Eff. Aug. 14, 1956; 1954 ACS 26, p. 20, Eff. May 15, 1961; 1954 ACS 34, p. 5, Eff. May 15, 1963; 1954 ACS 42, p. 5, Eff. May 15, 1965; 1954 ACS 69, p. 17, Eff. Nov. 1, 1971.

R 205.55 Automotive parts dealers.

Rule 5. (1) Sales at retail of automobile parts for consumption or use are taxable. (See R 205.117—Repairers and servicers.) Every retailer of automotive parts such as a garage, car dealer, service station, etc., is required to have a sales tax license. Sales for resale by a wholesaler to such a licensed retailer are exempt. However, the wholesaler is liable for the tax when he sells to the consumer or user, including a person with a sales tax license who purchases automobile parts or tools, equipment and supplies for consumption or use. For instance, the sale of piston rings to a duly licensed garage operator is exempt if the rings are to be resold over the counter to a person who will install them; sold in connection with repair work for a customer; or installed in a used car that the retailer has purchased or taken as a trade-in, which is being reconditioned for sale. However, the sale of the rings to the retailer is taxable if he installs them in a vehicle kept for his own use, such as a wrecker used in his business or a car kept for use by his family.

(2) All sales not for resale to a person not having a sales tax license are taxable, regardless of what he buys, the nature of his business or the manner in which he uses the material.

(3) Any amount allowed or allowable as a trade-in, exchange or deposit is part of the gross proceeds subject to tax.

History: 1944 AC, p. 1322; 1954 AC, p. 911; 1954 ACS 69, p. 19, Eff. Nov. 1, 1971.

R 205.56 Bakeries.

Rule 6. (1) Sales of bakery products for home consumption are exempt.

(2) Sales of bakery products for immediate consumption are taxable. This includes bakery items sold in conjunction with hot coffee, tea, or milk on a "to go" basis. (See R 205.136—Food for home consumption.)

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(3) Tangible personal property is taxable, unless that tangible personal property becomes an ingredient or component part used or consumed in the preparation of bakery products produced for sale by a retailer for retail sale.

(4) The purchase of tangible personal property by a person regularly engaged in the baking business is exempt as a purchase for resale if the item purchased becomes an ingredient or component part of a bakery product produced for sale. (See R 205.90—Industrial processing.)

History: 1944 AC, p. 1322; 1954 AC, p. 912; 1954 ACS 69, p. 19, Eff. Nov. 1, 1971; 1954 ACS 88, p. 41, Eff. Aug. 6, 1976.

R 205.57 Barber and beauty shops.

Rule 7. (1) Barber or beauty shop operators are engaged primarily in rendering personal services not subject to tax. Sales of tangible personal property to them are taxable. Sellers of cosmetics, tonics, lotions, shaving soaps, barber tools and supplies, barber chairs, shop equipment, furniture and fixtures and other tangible personal property purchased for use in barber and beauty shops are required to remit the tax thereon.

(2) However, if a barber or beauty shop operator sells tangible personal property separately from the rendering of personal services, these sales are taxable but he may deduct in his tax return the amount on which tax was paid at the time of purchase.

History: 1944 AC, p. 1322; 1954 AC, p. 912.

R 205.58 Beer, wine, and liquors.

Rule 8. (1) Sales of beer, wine, and spirituous liquors for consumption and use are taxable. The seller shall also include in the gross sales reported on his tax return all other retail sales.

(2) Sales of spirituous liquor and wine by specially designated distributors shall be included in total gross sales reported by such distributors. Sales of spirituous liquor and wine by a club to its members and guests are subject to the tax on the full retail price with no deduction for the cost of such liquor and wine. (See R 205.68—Containers, cartons, and wrapping materials.)

History: 1944 AC, p. 1322; 1954 AC, p. 912; 1954 ACS 28, p. 23, Eff. May 15, 1961; 1954 ACS 29, p. 6, Eff. Feb. 14, 1962; 1954 ACS 34, p. 7, Eff. May 15, 1963; 1954 ACS 69, p. 20, Eff. Nov. 1, 1971.

R 205.59 Blacksmiths.

Rule 9. (1) Blacksmiths are considered to be in the business of selling tangible personal property to users or consumers, and also rendering services. They are liable for the tax only with respect to their receipts from the sale of their tangible personal property either by itself or furnished in connection with repair work.

(2) Where a blacksmith makes or fabricates tangible personal property for sale separately from the rendering of services, he is liable for the tax on the gross receipts of the sale of such articles.

(3) The sale of horse or mule shoes in connection with services rendered to a person regularly engaged in "agricultural producing" is not taxable, provided such animals are used directly on farm work. Sales of similar property to riding stables or jockey clubs are taxable.

History: 1944 AC, p. 1323; 1954 AC, p. 912.

R 205.60 Bookbinders and paper cutters.

Rule 10. (1) Persons engaged in the business of binding books, magazines, and printed matter for others, wherein the value of the tangible property transferred is negligible, are considered to be selling a service and tax applies on the cost of the equipment, materials, and supplies purchased.

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(2) If a bookbinder binds his own printed matter and sells the finished products to users or consumers or makes and sells loose-leaf binders or other articles at retail, he shall remit the tax on the entire receipts from such sales.

(3) A person engaged in the business of paper cutting, folding, gathering, padding, or punching circulars, office forms, or other printed matter belonging to others renders nontaxable services. Sales of tangible personal property to such persons for use or consumption in the performance of these services are taxable.

History: 1944 AC, p. 1323; 1954 AC, p. 913; 1954 ACS 78, p. 6, Eff. Mar. 1, 1974; 1954 ACS 100, p. 58, Eff. July 27, 1979.

R 205.61 Books and rental libraries.

Rule 11. (1) Sales not for resale of books, laboratory or other educational supplies to public schools and other educational institutions not operated for profit, are exempt.

(2) Sales of books to a rental library for rental to its clients are taxable sales except when the rental library has claimed exemption for the purpose of remitting use tax on rental receipts as provided in R 205.132. When a rental library also sells books, the tax applies to the total receipts from sales by such rental libraries and such sellers must have a sales tax license.

History: 1944 AC, p. 1323; 1954 AC, p. 913; 1954 ACS 26, p. 23, Eff. May 15, 1961; 1954 ACS 78, p. 6, Eff. Mar. 1, 1974.

R 205.62 Airplanes and airlines.

Rule 12. (1) The sales of new and used aircraft are subject to sales tax on the full selling price without any deductions for expenses incurred as part of the cost of doing business. Trade-ins are not deductible.

(2) Gasoline, jet fuel, oil, repair parts, and other tangible personal property sold and delivered in Michigan for operation of aircraft are subject to sales tax regardless of where the plane will be flown or used. Tax applies whether such sales are to private or commercial airlines.

(3) An airplane retailer is required to remit sales tax on sales of planes solicited through his sales organization regardless of whether such sales are on his own behalf or on behalf of the plane owner. So-called "brokerage" transactions are taxable on the full selling price.

(4) Aircraft purchased for consumption or use in Michigan from individuals or retailers outside the state of Michigan are subject to the 4% use tax.

(5) A purchaser of airplanes who is licensed as a retailer of airplanes, who uses such property solely for demonstration or display and for which no charge is made while holding it for sale in the regular course of business, is not required to pay a tax on account of such use.

(6) A retailer of aircraft who purchases new or used aircraft for the primary purpose of demonstration, who is licensed by the Michigan department of revenue as an aircraft retailer and, further, who has secured registration certificates for each aircraft from the Michigan department of aeronautics, shall pay a use tax on all revenue derived from the utilization of such aircraft or on the amount taken as depreciation charges plus operating costs, whichever is greater, during the period such property is held in inventory and retained as a valid demonstrator.

(7) Sales tax applies to the retail sale of the airplane following its use for demonstration, display or other use. This is a distinct and separate transaction from the prior election to convert the plane to personal use. Thus, sales tax must be paid by the dealer on the full selling price without deduction for use tax previously paid.

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(8) The transfer of an aircraft registration from one individual owner to another is subject to imposition of use tax. Such tax shall be paid directly to the Michigan department of revenue. (See R 205.135—Isolated vehicle, aircraft, watercraft, and snowmobile transfers.)

History: 1944 AC, p. 1323; 1954 AC, p. 913; 1954 ACS 26, p. 23, Eff. May 15, 1961; 1954 ACS 42, p. 8, Eff. May 15, 1965.

R 205.63 Cemeteries and crematories.

Rule 13. (1) Sales of tangible personal property (boxes, urns, markers, vases, flowers, etc.) by cemeteries and crematories are taxable.

(2) The sale of lots, crypts and niches are considered to be real estate and are not taxable.

(3) Sales not for resale to cemeteries and crematories are taxable. These include materials and supplies used in construction, maintenance, improvement, or alteration of buildings and grounds, such as seeds, plants, fertilizer, etc.

(4) Sales of equipment to cemeteries and crematories for consumption and use are taxable.

History: 1944 AC, p. 1323; 1954 AC, p. 913.

R 205.64 Chemicals.

Rule 14. (1) Sales of chemicals are taxable when sold to persons who consume or use them in experimental or development work not connected with an industrial process. Chemicals used in the rendering of services, repair work, and other nonindustrial activities are taxable.

(2) Sales of chemicals are not taxable when consumed or used in industrial processing. (See R 205.90—Industrial Processing.)

History: 1944 AC, p. 1324; 1954 AC, p. 914; 1954 ACS 29, p. 6, Eff. Feb. 14, 1982.

R 205.65 Churches and houses of religious worship.

Rule 15. (1) Sales, not for resale, to regularly organized churches and houses of religious worship are not subject to the tax if the item purchased is paid for by the church from church funds; however, sales of property used in a commercial enterprise by a church or house of religious worship, and sales of vehicles licensed for use on the public highways, are taxable. Sales of tangible personal property, including sales of meals in a commercial activity, when conducted as a retail business for gain, benefit, or advantage, direct or indirect, are taxable, and a sales tax license shall be obtained for the purpose of reporting and paying the tax due.

(2) Sales to religious organizations and societies composed of church members are taxable.

(3) Sales of merchandise to be given as prizes in games of skill or chance are taxable.

(4) Sales to all church employees for their own use are taxable.

(5) If an exemption is to be claimed, the seller, at the time of transfer of the tangible personal property, shall retain, as part of the seller's records, an executed exemption certificate which reads as follows:

CERTIFICATE TO BE EXECUTED WHEN TAX EXEMPT SALE IS MADE TO AN EXEMPT INSTITUTION OR AGENCY

The undersigned hereby certifies that the item or items being purchased are to be used or consumed in connection with the operation of the exempt institution or agency named in the space provided below, and that the consideration for this purchase moves from the funds of the designated institution or agency. In the

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event this claim is disallowed, the transferee promises to reimburse the seller for the amount of tax involved.

_____
Name of exempt institution or agency

Date _____

_____
Signature and title of person making certification

History: 1944 AC, p. 1324; 1954 AC, p. 914; 1954 ACS 7, p. 8, Eff. Aug. 14, 1956; 1954 ACS 69, p. 20, Eff. Nov. 1, 1971; 1954 ACS 88, p. 41, Eff. Aug. 6, 1976.

R 205.66 Clipping bureaus.

Rule 16. (1) Sales of press clippings are taxable. If a press clipping bureau merely furnishes special information derived from press clippings to which it retains title, its receipts are deemed to be derived from rendering service and not taxable.

(2) Sales of lists of names, statistics, and other information in the form of cards, sheets, or other tangible personal property are taxable.

History: 1944 AC, p. 1324; 1954 AC, p. 914.

R 205.67 Coal and other fuel dealers.

Rule 17. (1) The sale of coal, coke, wood, fuel oil, liquid petroleum gas, and other fuel to consumers or users is taxable on the basis of the delivery price, including all transportation charges. However, a separate charge for wheeling or carrying coal from the residence street of purchaser to his bin or cellar is deemed to be a service charge and is not taxable since such services are beyond the trade practice of dumping from vehicle into purchaser's bin.

(2) The sale of equipment, tools, materials, supplies, etc. consumed or used in handling and preparing fuel for market or delivery is taxable.

(3) Sales of bottle gas equipment to dealers and distributors are subject to sales or use tax except when purchased for rental to the gas user with use tax then to be paid on the rental charge. For purposes of determination, only those rentals which are collected under a specific written rental agreement carrying a reasonable rental rate consistent with the actual cost of the equipment will be considered as a rental subject to use tax. All other use of bottle gas equipment will be subject to tax at the time of purchase. (See R 205.132—Rentals.)

(4) The sale of fuel is taxable if for consumption or use by ships, tugs, dredges, barges, fishing boats, and other watercraft, either for commercial, pleasure, or private use, irrespective of where the buyer and seller are located or whether the purchaser, subsequent to the delivery of such property within the state, transports it out of the state or uses it in interstate commerce. Sales of bunker and galley fuel sold for use by certain vessels with a registered tonnage of 500 tons or more, and engaged in interstate commerce, are exempt. Sales for use of vessels operating in foreign commerce are taxable.

(5) The sale of fuel to public utilities to be used or consumed in the manufacturing of power, heat, light or gas to be sold at retail is not taxable.

(For sales of fuel for industrial processing purposes, see R 205.90.)

History: 1944 AC, p. 1324; 1954 AC, p. 914; 1954 ACS 26, p. 24, Eff. May 15, 1961; 1954 ACS 69, p. 20, Eff. Nov. 1, 1971.

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R 205.68 Containers, cartons, and wrapping materials.

Rule 18. (1) "Containers" means the articles and devices in which tangible personal property is placed for shipment and delivery, such as wrapping materials, bags, cans, twines, gummed tapes, barrels, boxes, tote boxes, pallets, racks, bottles, drums, carboys, cartons, sacks, and materials from which such containers are manufactured.

(2) Sales of containers to persons regularly engaged in rendering a service are taxable.

(3) Sales of containers to persons for resale are exempt. If a separate charge is made for the sale of a container to a person, other than for resale, the receipts from the sales are taxable.

(4) Sales of containers to a person, such as a manufacturer, wholesaler, jobber, or retailer, who uses the containers to ship or deliver goods, and who retains the ownership or legal right of possession of the containers, are taxable.

(5) Sales or purchases, for a single use only, of bracings, blocking, skidding, shoring, and other materials, commonly known as "dunnage," are taxable when used in the shipment of a product to a customer.

(6) Deposits on a returnable container for a beverage, or the deposit on a carton or case which is used for returnable beverage containers, are not taxable when sold in conjunction with a sale of a beverage.

History: 1944 AC, p. 1324; 1954 AC, p. 914; 1954 ACS 30, p. 5, Eff. May 15, 1962; 1954 ACS 69, p. 21, Eff. Nov. 1, 1971; 1954 ACS 88, p. 41, Eff. Aug. 6, 1976; 1954 ACS 100, p. 59, Eff. July 27, 1979.

R 205.69 Rescinded.

History: 1944 AC, p. 1325; 1944 ACS 21, p. 26; 1944 ACS 31, p. 18; 1954 AC, p. 915; 1954 ACS 7, p. 9, Eff. Aug. 14, 1956; 1954 ACS 26, p. 24, Eff. May 15, 1961; rescinded 1954 ACS 69, p. 21, Eff. Nov. 1, 1971.

R 205.70 Consignments.

Rule 20. (1) Sales of tangible personal property consigned, delivered, or entrusted to a retailer for the purpose of sale are taxable on the total retail sale price without deduction for any expense such as storage, rental, commission, repairs, etc. It is immaterial whether such goods are different from those sold in the regular business of the seller.

(2) Where a retailer selling tangible personal property belonging to another has the right to withhold or claim a portion of the sale price as his compensation, he shall include the total amount received from the sale of such goods in his tax return.

History: 1944 AC, p. 1326; 1954 AC, p. 915.

R 205.71 Contractors.

Rule 21. (1) "Contractor" includes only prime, general, and subcontractors directly engaged in the business of constructing, altering, repairing, or improving real estate for others.

(2) Contractors are consumers of the materials used by them. All sales to or purchases by contractors of tangible personal property are taxable, except when affixed and made a structural part of real estate for a qualified exempt nonprofit hospital or a nonprofit housing entity qualified as exempt under the sales and use tax acts. All materials consumed in the performance of such contracts and not affixed and made a structural part of real property are taxable. Retailers making exempt sales shall obtain the following exemption certificate.

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SALES OR USE TAX

Certification is made that the merchandise specified in the instrument to which this is made part will become part of the completed structure for a nonprofit hospital or a nonprofit housing entity qualified as exempt under the sales and use tax acts.

Should determination be made that any or all of this merchandise is used for a taxable purpose, it is agreed that tax, penalty, and interest will be paid to the seller.

_____
Name of exempt entity

_____
Name of contractor

Signed by _____ Dated _____

(3) Sales and rentals of tools, machinery, and equipment to contractors are taxable.

(4) Where a contractor is exclusively engaged in the contracting business and makes no direct sales to other contractors or consumers, he does not need a sales tax license. Such nonlicensed contractors are required to maintain a use tax registration and pay the use tax to the state on purchases made from out-of-state sellers.

(5) Where a contractor is not engaged exclusively in the contracting business but makes sales of tangible property at retail to other contractors and consumers, he shall secure a sales tax license and file returns to report sales on such transactions. Use tax due on out-of-state purchases and on merchandise acquired for resale and later consumed in contract operations shall be reported on the combined sales and use tax return.

(6) Where a manufacturer affixes his product to real estate for others, he qualifies as a contractor and shall remit use tax on the inventory value of the property at the time the property is converted to the contract which value shall include all costs of manufacturing, fabricating, and processing.

(7) A contractor purchasing tangible personal property for affixation to realty where delivery is taken in Michigan is subject to sales or use tax on the purchase price whether the improvement or construction of realty takes place within or without Michigan, except as noted in subrule (2).

History: 1944 AC, p. 1326; 1944 ACS 19, p. 17; 1944 ACS 31, p. 19; 1954 AC, p. 915; 1954 ACS 7, p. 9, Eff. Aug. 14, 1956; 1954 ACS 29, p. 6, Eff. Feb. 14, 1962; 1954 ACS 42, p. 8, Eff. May 15, 1965; 1954 ACS 69, p. 21, Eff. Nov. 1, 1971; 1954 ACS 100, p. 59, Eff. July 27, 1979.

R 205.72 Milk dealers and dairy products.

Rule 22. (1) The producing of milk is covered by R 205.51. The sale of all tangible personal property consumed or used directly in such producing prior to shipment from the place of production is not taxable.

(2) Sales of tangible personal property consumed or used in the receiving, storage, transportation, or delivery of milk are taxable. Transportation of milk from the place where it is produced, as well as the receiving and storage of the milk at the processing plant, is taxable. Processing includes all necessary operations performed on the milk prior to shipment from the plant. Sales of tools and equipment used directly in the processing of milk or milk products, and lubricants and other materials consumed or used in the maintenance of that equipment, are not taxable. Sales of tangible personal property consumed or used in the construction, alteration, repair, or improvement of buildings and grounds are taxable.

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(3) Sales of equipment used or consumed in the delivery of milk and milk products are taxable, including horses, harnesses, wagons, trucks, cases, crates, etc., and property used for the maintenance and operation of that equipment.

(4) Sales of milk bottles and milk cans to dairies for use in processing milk for sale at retail by others, together with washing machines for the same and cleaning compounds used in connection therewith by such processors, are not subject to tax. Sale of milk bottle crates or cases for transportation, receiving, storage, or delivery are subject to tax. Sales of milk cans to farmers for use in cooling milk prior to shipment to dairies are not taxable.

(5) Dairy products sold by retailers to consumers for home preparation of meals are not subject to sales tax.

(6) Sales of prepackaged ice cream or sherbet in pints, quarts, gallons, or larger quantities are exempt when sold for home consumption. Sales of sundaes, cones, milk shakes, soft drinks, and similar items sold for immediate consumption, on or off the premises, are taxable.

History: 1944 AC, p. 1327; 1954 AC, p. 917; 1954 ACS 69, p. 22, Eff. Nov. 1, 1971; 1954 ACS 88, p. 42, Eff. Aug. 6, 1976.

R 205.73 Directories.

Rule 23. (1) Sales of business, telephone, city, and other similar directories are taxable.

(2) When such directories are given without charge to users, the tax applies to the cost when sold to the donor.

History: 1944 AC, p. 1327; 1954 AC, p. 917; 1954 ACS 78, p. 6, Eff. Mar. 1, 1974.

R 205.74 Educational institutions.

Rule 24. (1) Sales, not for resale, to regularly organized educational institutions not operated for profit are not taxable. "Not operated for profit," as used in this rule, means operated by an entity of government, a regularly organized church, religious or fraternal organization, where the income from the operation does not inure, in whole or in part, to the benefit of individuals or private shareholders, directly or indirectly, and where the activities of the entity are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, or benefits of its members or a restricted group. "Educational institution," as used in this rule, means an institution of learning, organized solely for educational purposes, which maintains a faculty of qualified instructors, and teaches regular, continuous courses of study, and which confers upon students a recognized diploma after completion of a specific curriculum.

(2) Sales of athletic equipment to a regularly organized educational institution for consumption or use are not taxable if the athletic activities are under the management and control of the educational institution and the entire receipts are expended for athletic or educational purposes.

(3) Educational institutions which are not operated for profit, and which operate lunchrooms, cafeterias, or dining rooms for the exclusive use of bona fide enrolled students, are not taxable. Whenever such a lunchroom, school cafeteria, or dining room sells to nonstudents, including teachers, the institution operating it is subject to the tax on those sales.

(4) Sales of class pins, rings, and similar articles are taxable when paid for, directly or indirectly, by the students.

(5) Sales to educational associations, parent teacher organizations, teachers, and other personnel of an educational institution are taxable.

(6) If an exemption is claimed, then at the time of the transfer of the tangible personal property, the seller shall retain, as part of the seller's records, an executed exemption certificate which reads as follows:

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CERTIFICATE TO BE EXECUTED WHEN TAX EXEMPT SALE IS MADE TO AN EXEMPT INSTITUTION OR AGENCY

The undersigned hereby certifies that the item or items being purchased are to be used or consumed in connection with the operation of the exempt institution or agency named in the space provided below and that the consideration for this purchase moves from the funds of the designated institution or agency. In the event this claim is disallowed the transferee promises to reimburse the seller for the amount of tax involved.

_____
Name of exempt institution or agency

Date _____

_____
Signature and title of person making certification

(7) Schools operating a kindergarten through twelfth grade program are not required to pay tax on the sales of textbooks to enrolled students. Sales of textbooks to nonstudents are taxable. Sales of yearbooks and annuals to both students and nonstudents are taxable.

History: 1944 AC, p. 1327; 1944 ACS 31, p. 20; 1954 AC, p. 918; 1954 ACS 7, p. 11, Eff. Aug. 14, 1956; 1954 ACS 71, p. 6, Eff. May 31, 1972; 1954 ACS 88, p. 42, Eff. Aug. 6, 1976.

R 205.75 Employee associations and organizations.

Rule 25. Organizations of employees which sell tangible personal property of any kind to their members or others must procure a sales tax license and pay the tax on such sales.

History: 1944 AC, p. 1328; 1954 AC, p. 918.

R 205.76 Employer sales to employees.

Rule 26. (1) When an employer sells tangible personal property to his employees, permits them to purchase through his organization or to buy from others on discounts available to him or in any other manner obtain goods through him, such sales are taxable. The employer shall include such sales in his tax return and pay the tax regardless of whether such articles are charged to the employee.

(2) If the employer is exempt from the tax on his regular business, he must apply for a license and pay the tax on such sales.

(3) When an employer purchases tangible property for free distribution to employees, the tax applies to the sale of such property to him. (See R 205.112—Premiums and gifts.)

History: 1944 AC, p. 1328; 1954 AC, p. 918.

R 205.77 Fairs, circuses, carnivals, and other public exhibitions.

Rule 27. (1) Persons conducting games of chance or skill at fairs, carnivals, circuses, expositions, celebrations, bazaars, picnics, and similar places and delivering merchandise as prizes are deemed consumers of such articles. All sales to them of tangible personal property, including merchandise, devices, apparatus, furnishings, and other equipment are taxable. Credit cards and extension of credit in any form, given as prizes, will be deemed merchandise and taxable, unless the tax is paid at the time the credit is exchanged for merchandise.

(2) Concessionaires at fairs, circuses, carnivals, etc., shall procure a sales tax license and pay the tax on all their sales at retail. The department reserves the right

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to require a concessionaire to file a report and pay the tax at the close of any business day or period during which he operates.

(3) Persons operating or sponsoring a fair, circus, carnival, etc., shall be held liable, as the principal, for the tax upon the sale or use of tangible personal property sold, given as prizes or otherwise disposed of by a person engaged in business without a sales tax license at such exhibition, unless the tax is paid by the dispenser of such property.

History: 1944 AC, p. 1328; 1954 AC, p. 918.

R 205.78 Farmers, market masters, and other marketers.

Rule 28. (1) Farmers, market masters, and other persons who sell at retail tangible personal property, other than food for home consumption or use, shall secure a license and pay the tax on those sales.

(2) Sales of the property specified in subrule (1) for resale to persons possessing a sales tax license are not taxable.

(3) Where a person selling other than food at retail rents or occupies space in a general market or other place operated for the purpose of transacting sales, that person shall secure a sales tax license, and shall pay the tax on the sales made by that person. If the seller does not have a sales tax license, the market master, as the principal, is responsible for paying the tax on the sales made by that person.

History: 1944 AC, p. 1328; 1954 AC, p. 919; 1954 ACS 88, p. 43, Eff. Aug. 6, 1976.

R 205.79 Federal and state governments.

Rule 29. (1) Sales to the United States government, the state and its political subdivisions, departments and institutions are not taxable if such sales are ordered on the prescribed respective government form or purchase order and are paid for directly to the seller by warrant on government funds.

(2) When such sales are made without the required purchase order form being supplied in advance, the sale is taxable but the licensee may later take credit for the tax payment upon his subsequent receipt of purchase order and warrant covering such sales.

(3) Sales to governmental employees for their own consumption or use are taxable.

(4) The tax applies on sales by private entrepreneurs on federal areas, if the sale is not made directly to an exempt federal instrumentality.

(5) The tax does not apply on sales to the regular departments of the United States government. Exempt also are sales to federal agencies, offices, establishments and instrumentalities which the state is prohibited from taxing under the constitution or laws of the United States. Address inquiries to the department of revenue as to the taxability of sales to specific federal agencies, giving full information concerning the transaction.

(6) A person subject to a tax under this act need not include in the amount of his gross proceeds used for the computation of the tax any proceeds of his business derived from sales to the United States, its unincorporated agencies and instrumentalities, any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American red cross and its chapters and branches, and the state or its departments and institutions or any of its political subdivisions.

(7) Sales to and purchases by national banks are taxable.

History: 1944 AC, p. 1328; 1954 AC, p. 919; 1954 ACS 7, p. 12, Eff. Aug. 14, 1956; 1954 ACS 26, p. 24, Eff. May 15, 1961; 1954 ACS 42, p. 10, Eff. May 15, 1965; 1954 ACS 69, p. 22, Eff. Nov. 1, 1971.

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R 205.80 Florists and nurserymen.

Rule 30. (1) Florists and nurserymen regularly engaged in the business of selling tangible personal property at retail, such as flowers, trees, plants, shrubs, seeds, grass, etc., are liable for the tax on their gross sales. The tax is applicable irrespective of where or how such items are grown or produced and regardless of whether sold from a store, curb, market, greenhouse, farm, or other place. (Sales for commercial production explained in R 205.51, Agricultural producing.)

(2) The following apply to sales made through telegraphic delivery association or in similar manner:

(a) On all orders taken by a Michigan florist and telegraphed to a second florist, either in Michigan or to a point outside the state, the florist taking the order is liable for the tax.

(b) Where Michigan florists receive telegraphic instructions from other florists located either within or outside of Michigan for the delivery of flowers, the florist receiving the telegraphic instructions is not held liable for the tax with respect to any proceeds which he may realize from the transaction.

(3) Where a florist or nurseryman contracts to furnish and plant shrubbery, plants, trees, etc., for others he is deemed to be improving real estate and use tax, based on the fair market value of the stock consumed, will apply.

History: 1944 AC, p. 1329; 1954 AC, p. 920; 1954 ACS 69, p. 23, Eff. Nov. 1, 1971.

R 205.81 Foreign commerce.

Rule 31. (1) The tax does not apply to export sales when, as a necessary incident to the contract of sale, the exporter must and does deliver the goods to the purchaser at a foreign destination, or is bound, under terms of contract of sale, to place the goods in the hands of a common carrier consigned to the buyer at a foreign destination. It is immaterial whether title to the goods passes upon delivery to the carrier or upon arrival of the goods at their destination.

(2) A sale to an exporter is not taxable if the contract requires the seller to deliver the goods on board ship or in the hands of a common carrier consigned on board ship.

(3) The principal factors giving evidence to a shipment for export are that the foreign destination be shown on the container of such goods and on a bill of lading or other evidence of shipment to a carrier or forwarder acting for the shipper or carrier and that the goods remain in the original, unbroken container until arrival at destination.

(4) The tax will apply to sales made by an importer of tangible personal property imported into the state from a foreign country in like manner and to the same extent as sales made by a retailer of domestic tangible personal property.

History: 1944 AC, p. 1329; 1954 AC, p. 920.

R 205.82 Altering, repairing, and remodeling furs.

Rule 32. (1) Persons altering, repairing, or remodeling furs for others are retailers of the fur used in connection with such altering, repairing, or remodeling and shall pay the tax upon the retail selling price thereof. The retail selling price of such fur shall be segregated on the bills or sales checks to the customer from the charge for labor in connection with such altering, repairing, or remodeling. Failure to separate the sale of material from the sale of labor requires payment of the tax on the entire amount charged to customers.

(2) Persons altering, repairing, or remodeling furs are consumers of the thread, buttons, lining, and materials other than fur used in connection with such altering,

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repairing, or remodeling, unless a separate charge is made to customers for such thread, buttons, and lining, in which case the tax applies to such separate charge.

(3) Sales of furs to persons altering, repairing, or remodeling furs and sales of thread, buttons, and lining for which a separate charge is made to their customers are sales for resale and the gross receipts therefrom are not taxable. The tax applies, however, to the gross receipts from sales to persons altering, repairing, or remodeling furs, of thread, buttons and lining, for which a separate charge is not made by such persons to their customers.

(4) Sales of sewing machines, pressing machines, and other tools, instruments, and materials sold to fur and garment repairers for use in their business are taxable.

History: 1944 AC, p. 1330; 1954 AC, p. 920; 1954 ACS 100, p. 60, Eff. July 27, 1979.

R 205.83 Gasoline stations and other motor fuel retailers.

Rule 33. (1) The sale of motor fuel, oil, grease, antifreeze, and other tangible personal property for use or consumption in motor vehicles operated on public highways or for any other use not specifically exempted by law is taxable. Such sales are taxable on the basis of the total receipts, without deduction for labor or other expenses or losses.

(2) The sale of aviation gasoline, turbojet fuel, jet fuel, and other fuels, oils, and lubricants to commercial airlines and to other operators of aircraft is taxable on the total receipts, without deduction for labor or other expenses or losses.

(3) The sale of fuel and lubricants for use in commercial fishing craft, pleasure craft, and boats under 500 tons is taxable.

(4) The sale of equipment, material, and supplies consumed or used by a person in the business of marketing gasoline and other petroleum products is taxable.

(5) The sale of chassis lubricants, wheel greases, and other products sold to a gasoline station operator or to others for use in performing a service is taxable.

(6) Motor fuel retailers may take a deduction from gross proceeds on their sales tax returns for the state motor fuel taxes paid by the retailer to the state or to the distributor.

(7) The manufacturers' federal excise tax on gasoline, lubricating oils, tires, and tubes shall be included as part of the retailers' gross proceeds subject to tax.

(8) Dealers paying retailers' federal excise taxes on special motor fuels, such as diesel fuel or liquid petroleum gas, are not required to include the excise taxes as part of the gross proceeds subject to sales tax.

(9) Sales or use tax does not apply on sales or purchases of diesel fuel for use in passenger vehicles of 10 or more capacity operated for hire under a certificate issued by the public service commission when such vehicles operate over regularly scheduled routes in this state. Exemption does not prevail for charter trips.

History: 1944 AC, p. 1330; 1954 AC, p. 921; 1954 ACS 17, p. 5, Eff. Feb. 14, 1959; 1954 ACS 29, p. 8, Eff. Feb. 14, 1962; 1954 ACS 69, p. 23, Eff. Nov. 1, 1971; 1954 ACS 88, p. 43, Eff. Aug. 6, 1976; 1954 ACS 100, p. 60, Eff. July 27, 1979.

R 205.84 Golf and country clubs.

Rule 34. (1) Sales of tangible personal property by golf and country clubs are taxable and such clubs must obtain and maintain a sales tax license.

(2) Sales, not for resale, to these clubs are taxable, including seeds, plants, fertilizer, etc., used to improve the grounds, and equipment, supplies and other tangible personal property. (See also R 205.116—Restaurants, hotels, lunchrooms,

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and other establishments; R 205.95—Leased departments; and R 205.98—Meals.)

History: 1944 AC, p. 1330; 1954 AC, p. 921.

R 205.85 Hatcheries and incubators.

Rule 35. (1) Sales by a person regularly engaged in the business of selling poultry or operating a hatchery, of chicks or other poultry for consumption by the purchaser, are taxable.

(2) Such sales are exempt when made to a person regularly engaged in the business of raising and reselling poultry or producing eggs for sale. However, the seller is liable for the tax if the chicks or other poultry are consumed or used by the purchaser, and the seller must have evidence to the contrary when deduction for "resale" is taken on his return.

(3) The charge for the hatching of eggs for a person owning such eggs is not taxable.

(4) The sale of eggs, feeds, sprouters, medicines, insecticides, etc., for consumption or use by a person regularly engaged in the business of producing poultry products for sale is not taxable. The sale of such items to persons keeping poultry mainly for their own consumption are taxable even though resales are made occasionally to dispose of temporary surpluses.

History: 1944 AC, p. 1330; 1954 AC, p. 921.

R 205.86 Homes for children and aged persons.

Rule 36. (1) Sales not for resale to homes for the care and maintenance of children or aged persons, when not operated for profit and when operated by an entity of government, a regularly organized church, religious or fraternal organization, a veterans' organization or a corporation incorporated under the laws of the state, are exempt when the income or benefit from the operation does not inure, in whole or in part, to any individual or private shareholder, directly or indirectly, and when the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests and benefits of its members or any restricted group.

(2) If exemption is claimed, then at time of transfer of the tangible personal property the seller shall retain as part of his records an executed exemption certificate which reads as follows:

CERTIFICATE TO BE EXECUTED WHEN TAX EXEMPT SALE IS MADE TO AN EXEMPT INSTITUTION OR AGENCY

The undersigned hereby certifies that the item or items being purchased is or are to be used or consumed in connection with the operation of the exempt institution or agency named in the space provided below and that the consideration for this purchase moves from the funds of the designated institution or agency. In the event this claim is disallowed the transferee promises to reimburse the seller for the amount of tax involved.

_____
Name of exempt institution or agency

Date_____ _____
Signature and title of person making certification

History: 1944 AC, p. 1330; 1944 ACS 31, p. 21; 1954 AC, p. 921; 1954 ACS 7, p. 12, Eff. Aug. 14, 1956; 1954 ACS 69, p. 23, Eff. Nov. 1, 1971.

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R 205.87 Hospitals.

Rule 37. (1) Sales, not for resale, of tangible personal property to hospitals not operated for profit, are not taxable. A "hospital," for the purpose of this rule, means only a separately organized institution or establishment, the primary purpose of which is to provide medical, obstetrical, psychiatric, or surgical attention and nursing to persons requiring the same. The sales tax exemption for sales to a hospital which is not operated for profit does not apply to an institution, establishment, or organization that is not a hospital as defined above, notwithstanding the fact that it may not be operated for profit. "Not operated for profit" means that the income or benefit from the operation of the hospital does not inure, in whole or in part, to individuals or private shareholders, directly or indirectly, and that the activities of the entity or agency are carried on exclusively for the benefit of the public at large, and are not limited to the advantage, interests, and benefits of its members or a restricted group.

(2) If an exemption is claimed, then, at the time of transfer of the tangible personal property, the seller shall retain, as part of the seller's records, an executed exemption certificate which reads as follows:

CERTIFICATE TO BE EXECUTED WHEN TAX EXEMPT SALE IS MADE TO AN EXEMPT INSTITUTION OR AGENCY

The undersigned hereby certifies that the item or items being purchased are to be used or consumed in connection with the operation of the exempt institution or agency named in the space provided below and that the consideration for this purchase moves from the funds of the designated institution or agency. In the event this claim is disallowed, the transferee promises to reimburse the seller for the amount of tax involved.

Date _____

_____

Name of exempt institution or agency

_____

Signature and title of person making certification

(3) A hospital claiming an exemption shall prove by its articles of association and bylaws that it is not directly or indirectly operated for profit, and that its income and assets may not inure, in whole or in part, directly or indirectly, to the benefit of any individuals, members, or private shareholders whatsoever. A copy of the articles of association and bylaws shall be submitted to the revenue division of the department of treasury for determination as to whether the hospital is entitled to the exemption.

(4) Sales by hospitals which are taxable retail sales include, but are not limited to, the following:

(a) Meals sold to visitors and employees.

(b) Nonprescription drugs, nonprescription medicines, and supplies sold to patients, doctors, employees, and the general public for consumption off the premises.

(c) Sales of cosmetics, souvenirs, and other similar merchandise.

(5) Sales by hospitals which are not taxable retail sales include, but are not limited to, the following:

(a) Drugs, medicines, insulin, and meals furnished patients and consumed on the premises.

(b) Charges for oxygen, blood plasma, and blood administered to patients.

(c) Dressings and bandages applied in the hospital.

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(d) Charges for X-ray radiation treatments, braces, splints, cases, therapeutic diets, and intravenous solutions furnished patients.

(e) Charges for anesthesia supplies and laboratory tests.

(f) Sales of eyeglasses prescribed or dispensed to correct a person's vision by an ophthalmologist, optometrist, or optician, and repair and replacement parts for such eyeglasses. (See R 205.104.)

(6) Hospitals making sales at retail shall be licensed and shall pay the sales tax, where applicable, whether organized for profit or not.

History: 1944 AC, p. 1330; 1954 AC, p. 922; 1954 ACS 6, p. 5, Eff. May 15, 1956; 1954 ACS 7, p. 13, Eff. Aug. 14, 1956; 1954 ACS 69, p. 24, Eff. Nov. 1, 1971; 1954 ACS 88, p. 44, Eff. Aug. 6, 1976; 1954 ACS 100, p. 61, Eff. July 27, 1979.

R 205.88 Hotels, motels, cabins, and camps; accommodations.

Rule 38. (1) Effective September 1, 1959, a 4% use tax is imposed on rental receipts from rooms or lodgings furnished by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise, irrespective of whether membership is required for use of the accommodations.

(2) The following rentals are exempt from the tax:

(a) Rooms or accommodations rented for a continuous period of more than 1 month to the same tenant.

(b) Rooms or accommodations furnished by hospitals, nursing homes, convalescent homes and mental institutions or similar institutions dedicated to the care and treatment of the sick under medical supervision.

(c) Rooms or accommodations furnished by summer camps operated by a legally qualified nonprofit corporation or association and camps licensed under Act No. 47, Public Acts of 1944, as amended, administered by the social welfare department.

(d) Rooms or accommodations furnished directly to the federal government provided exemption certificates are executed as issued by the comptroller general.

(e) Rooms or accommodations furnished directly to state and local governmental entities provided payment for such accommodations are made to the seller by a prescribed warrant on government funds.

(f) Rooms or accommodations furnished directly to legally qualified nonprofit corporations or associations, as prescribed in section 4, subsection (j), of the use tax act, and regularly organized churches and houses of religious worship. Organizations and societies of church members are taxable.

(3) As used in the act "hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or units, lodging houses, apartment hotels, rooming houses, camps, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public.

(4) All tangible personal property purchased by a hotel or motel operator is subject to sales or use tax.

(5) A motel or hotel operator making sales of tangible personal property, in addition to the renting of rooms, will be required to have a sales tax license for the purpose of reporting both sales and use tax. If no retail sales of tangible personal property are made, a use tax registration is needed.

History: 1944 AC, p. 1331; 1944 ACS 31, p. 21; 1954 AC, p. 922; 1954 ACS 28, p. 25, Eff. May 15, 1961; 1954 ACS 34, p. 8, Eff. May 15, 1963.

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R 205.89 Ice producing.

Rule 39. (1) Sales tax applies on the full retail selling price of ice sold to the final consumer by a retailer maintaining a sales tax license. The entire gross proceeds from sales of ice through vending machines and other automatic sales devices are taxable without any deductions for commissions, rentals and other expenses paid. It is immaterial whether the business operator owns such machine or the merchandise sold thereby.

(2) Ice producers and manufacturers selling directly to final consumers, except sales through vending machines as provided in subrule (1), shall maintain a sales tax license and remit tax on the sales.

(3) The sale of tools, equipment, materials and supplies consumed or used by an ice producer in the manufacturing of ice for sale is not taxable. Tangible personal property acquired for storing and delivery of ice is taxable.

History: 1944 AC, p. 1331; 1954 AC, p. 922; 1954 ACS 26, p. 26, Eff. May 15, 1961; 1954 ACS 29, p. 8, Eff. Feb. 14, 1962; 1954 ACS 69, p. 25, Eff. Nov. 1, 1971.

R 205.90 Industrial processing.

Rule 40. (1) This rule applies to sales, purchases and rentals of tangible personal property to persons for use or consumption in industrial processing, and the word "sales" hereafter used shall be construed to be either sale, purchase or rental. The word "manufacturing" as used in this rule is included within those activities which are considered "industrial processing."

(2) "Industrial processing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination or character of the property for ultimate sale at retail or use in manufacturing of a product to be ultimately sold at retail.

(3) The sale of tangible personal property to manufacturers, which property becomes an ingredient or component part of the finished product or that which is consumed, destroyed or loses its identity in a manufacturing process, together with the processing machinery and equipment (including maintenance and repairs thereof) used in the manufacturing of a product which is either to be sold ultimately at retail or to be used as tangible personal property in the manufacture of a product to be sold ultimately at retail, is not taxable. The consumption or use of the tangible personal property rather than the kind or character of the property sold is the determining factor as to whether or not such a sale is taxable. The industrial processing exemption does not include:

(a) Tangible personal property permanently affixed and becoming a structural part of real estate. This includes building utility systems such as heating, air conditioning, ventilating, plumbing, lighting and electrical distribution. Example: all electrical transmission and distribution materials and equipment which are installed in the construction of plant facilities for, or by, an industrial processor for use in transmitting electrical energy is taxable up to the last transformer, switch or other device at which point usable power is diverted from distribution circuits for use in industrial processing.

(b) Tangible personal property used or consumed in performing services upon property owned by others where the services do not transform, alter or modify the property so as to place it in a different form, composition or character.

(c) Office equipment, including data processing equipment used for nonindustrial processing purposes, and office furniture and office supplies wherever and however used.

(d) Tangible personal property used for receiving and storage of materials, supplies, parts and components purchased by the user or consumer.

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(e) Tangible personal property used for receiving and storage of natural resources extracted by the user or consumer.

(f) Vehicles, including special bodies or attachments, licensed and titled for use on public highways.

(g) Tangible personal property used for preparation of food and beverages by a retailer for retail sale.

(h) Tangible personal property used or consumed for the preserving or maintaining of a product in the form and condition in which it is to be sold.

(4) The following examples of nontaxable sales illustrate the application of the industrial processing exemption:

(a) Property which becomes an ingredient or component part of the finished product to be sold ultimately at retail.

(b) Machinery, tools, dies, patterns, machinery and equipment foundations and other processing equipment, including repair and maintenance of all of these, used in an industrial processing operation.

(c) Property which is consumed, destroyed or loses its identity in a manufacturing or other production process.

(d) Tangible personal property, not permanently affixed and not becoming a structural part of real estate, which becomes a part of, or is used and consumed in installation and maintenance of, systems used for processing purposes.

(e) Fuel or energy used or consumed for industrial processing.

(f) Machinery, equipment and materials used within a plant site for movement of tangible personal property in process of production.

(g) Office equipment, including data processing equipment, used for industrial processing purposes.

(5) Industrial processing includes the following activities:

(a) Production.

(b) Patent, experimental, development, engineering inspection and quality control.

(c) Planning, scheduling and production control.

(d) Design, construction and maintenance of factory machinery, equipment and tooling.

(e) Disposal of production scrap and waste.

(f) Production supervision.

(g) Production material handling.

(6) Industrial processing does not include the following activities:

(a) Purchasing, receiving and storage of raw materials.

(b) Sales, distribution, warehousing, shipping and advertising departments. (See R 205.68.)

(c) Administrative, accounting and personnel.

(d) Design, construction and maintenance of real property and nonprocessing equipment.

(e) Plant security, fire prevention and hospitals.

(7) The foregoing examples of taxable and exempt activities shall not be considered as exclusive in either category but are included as generally descriptive of industrial processing operations which are considered exempt as distinguished from nonexempt activities.

(8) Where the industrial processing areas or spaces are not separate and distinct from other departments or activities, or where the same tangible personal property can be used or consumed in the industrial processing area and 1 or more other areas, the tax will apply to such property unless it can be determined and

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substantiated to the satisfaction of the revenue division, department of treasury that a percentage or other apportionment thereof is equitable and practical.

History: 1944 AC, p. 1332; 1954 AC, p. 923; 1954 ACS 30, p. 5, Eff. May 15, 1962; 1954 ACS 71, p. 7, Eff. May 31, 1972.

R 205.91 Interstate commerce.

Rule 41. (1) The tax does not apply on any sale of tangible personal property when such tax is prohibited by the constitution or laws of the United States. Whether or not the tax on a sale at retail is prohibited by the constitution or laws of the United States depends primarily on the facts in each individual case. The department requests your inquiries concerning specific transactions involving interstate commerce.

(2) Where tangible personal property is located within the state at the time of sale and is delivered within the state it is taxable. It is immaterial that the purchaser may, subsequent to the sale, transport the property out of the state or use it in interstate commerce.

(3) A sale taking place within the state is taxable as an intrastate transaction. For example: tax would apply when a customer in Michigan purchases tangible personal property from a Michigan retailer, pays the seller the required sales price together with insurance or postage or freight regardless of the destination of the property purchased; tax would not apply on sales where the seller is obligated to make delivery to the purchaser at an out-of-state delivery point when the property will not be returned to Michigan for storage, use or consumption.

(4) When making a valid sale in interstate commerce, it is necessary for the seller to retain documentary evidence of shipment outside the state for the purpose of substantiating a deduction on the tax return. If the shipment of the property is diverted in transit or if for any reason it does not arrive at the indicated destination outside the state, or is reshipped into the state, the sale is taxable. The documents acceptable to the department are any of the following:

(a) A waybill or bill of lading made out to the seller's order and calling for delivery outside the state.

(b) An insurance or registry receipt issued by the United States postal service.

(c) A trip sheet signed by the seller's delivery agent and showing the signature and address of the person, outside the state, who received the goods delivered.

(d) Sales slips or other sales and shipping forms regularly used by the seller for interstate transactions must be filed separately from intrastate, in an accessible manner to facilitate an audit by the state.

History: 1944 AC, p. 1334; 1954 AC, p. 925; 1954 ACS 69, p. 25, Eff. Nov. 1, 1971.

R 205.92 Jewelers and jewelry repairers.

Rule 42. (1) Sales, not for resale, of watches, clocks, jewelry and other items by jewelers and jewelry repairers, are taxable.

(2) Sales of jewelry, such as class rings and pins, to high school and college students, members of fraternities, sororities, etc., are subject to the tax. This is true even when sales are made through a school official acting as agent either for the seller or the purchaser. Manufacturing jewelers making such sales by contract, either through school officials or through retail jewelers acting as commission agents, are to report and pay the tax on the full sales price of such transactions. They are not deemed to be either sales for resale or sales to educational institutions.

(3) Sales of trophies, medals, etc., to nonprofit educational institutions, intended for awards to students, are not taxable.

History: 1944 AC, p. 1334; 1954 AC, p. 926; 1954 ACS 26, p. 26, Eff. May 15, 1961.

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R 205.93 Kennels, stables, and pet shops.

Rule 43. (1) Sales, not for resale, of tangible personal property for use and consumption in operating boarding kennels and stables, or pet shops, are subject to tax.

(2) Persons operating boarding kennels and stables only, and making no retail sales of animals, are considered as consumers subject to tax on acquisition cost of property purchased.

(3) Sales of horses, dogs, other animals, birds, goldfish and other pets are subject to tax, except when sold to a person regularly engaged in the business of breeding such livestock for resale and conditioned that such breeder or propagator is the holder of a sales tax license.

History: 1944 AC, p. 1335; 1954 AC, p. 928; 1954 ACS 42, p. 10, Eff. May 15, 1965.

R 205.94 Labels, tags, and nameplates.

Rule 44. (1) Sales of labels, tags, or nameplates to persons using them in rendering services or for personal or business use or which do not accompany products sold, are sales for consumption and are taxable.

(2) Sales of labels or nameplates to be affixed to tangible personal property which is taxable when sold at retail, or to the containers sold with such property, are not subject to tax if the labels or nameplates are an inseparable part of the property sold and purchased by the buyer as a part of such property.

(3) Sales of labels to persons retaining title to containers to which the labels are affixed are not sales for resale but are sales for consumption and subject to tax.

History: 1944 AC, p. 1335; 1954 AC, p. 927.

R 205.95 Leased departments.

Rule 45. (1) Where an established business leases a portion of its shelves, counters, or floor space to other persons selling tangible personal property to consumers, the sales of tangible personal property by the leased departments shall be included in the tax return of the lessor, who shall pay the tax thereon to the state. A lessor not otherwise subject to the tax shall obtain a license in behalf of the lessee.

(2) When the lessee conducts the leased department in the same manner as an established like business, and gives evidence to the public that he is conducting his department separately from the lessor's business, or if separate business records are kept, the lessee may apply for a sales tax license, if the lessee keeps separate records of his business and files separate returns. The lessor shall be responsible for the tax unless the lessee obtains such a license.

(3) The word "lease," as used in this rule, includes permitted occupancy, regardless of consideration. The liquor commission restrains persons licensed by the commission from subleasing or surrendering any part of the business conducted at or on the licensed premises.

History: 1944 AC, p. 1335; 1944 ACS 31, p. 21; 1954 AC, p. 927; 1954 ACS 88, p. 45, Eff. Aug. 6, 1976.

R 205.96 Lumber dealers.

Rule 46. (1) Sales to a consumer or user are taxable. Sales for resale are exempt but the seller is required to establish the fact to avoid liability for tax.

(2) Sales to a person regularly engaged in "industrial processing" or "agricultural producing" may be either taxable or exempt, depending upon the specific use of the material sold. (See R 205.90—Industrial processing; R 205.51—Agricultural producing.)

(3) The seller must have proof that any sale is exempt. If in doubt as to the taxability of a sale, address an inquiry to the Michigan department of revenue

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giving full information concerning the use made of the item sold. (See R 205.71—Contractors.)

History: 1944 AC, p. 1335; 1954 AC, p. 927; 1954 ACS 26, p. 26, Eff. May 15, 1961.

R 205.97 Linen and laundry suppliers and laundries.

Rule 47. (1) Persons engaged in the business of laundering clothes and other textiles for others and persons operating a linen service or providing the use of clean jackets and other garments, towels and similar articles to hotels, barber shops and other establishments are deemed to be rendering a service. All sales to them of tangible personal property of any kind are taxable.

(2) Sales of tangible personal property at retail by such persons are taxable, but they may deduct on their tax returns the amount of gross sales upon which they paid the tax at time of purchase.

(3) Rentals of linens and other similar articles are subject to use tax unless the lessor has paid Michigan sales or use tax on the purchase price of the articles to be rented. A person remitting tax on the purchase price as a purchaser-consumer or remitting tax on rental receipts as a lessor, shall follow 1 or the other methods of remitting for his entire business operation.

History: 1944 AC, p. 1335; 1954 AC, p. 927; 1954 ACS 71, p. 8, Eff. May 31, 1972.

R 205.98 Meals.

Rule 48. (1) The sale of meals or other tangible personal property by railroad, pullman car, steamship, airplane, or other transportation companies, while operating in the state of Michigan, or upon Michigan waters, is taxable.

(2) Fraternities, sororities, and other student societies, with members residing at a common location and jointly sharing household expenses, including meals, are not considered to be selling at retail, and meals furnished to members are not taxable. Caterers or other persons selling meals to fraternities and sororities are taxable on their gross proceeds from meals so furnished.

History: 1944 AC, p. 1336; 1954 AC, p. 928; 1954 ACS 88, p. 45, Eff. Aug. 6, 1976.

R 205.99 Mining, oil wells, and extractive operations.

Rule 49. (1) An extractive operator includes a person who, from his own land or from the land of another, either directly or by contract, takes or extracts for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals or other natural resource material.

(2) An extractive operation begins when contact is made with the actual type of natural raw product being recovered and no exemptions in the nature of industrial processing are to be considered pending such contact. Processing includes all necessary processing operations before shipment from the place of extraction, except that tangible personal property consumed or used in the construction, alteration, improvement or repair of buildings, storage tanks, storage and housing facilities is taxable. The sale of tangible personal property for consumption or use in transporting the product from the place of extraction is taxable.

(3) If an extractive operator sells any part of his product at retail, or if he consumes or uses it himself in other than the manufacturing or producing of a product for ultimate sale, extractions thus sold or used are taxable and the extractor shall account for and remit the tax to the state. When he consumes or uses his own product, the tax shall be based upon its fair market value. Where an extractor sells to a wholesaler, refiner, manufacturer or other person for resale, the tax does not apply. However, where an extractor sells to a final buyer or ultimate consumer, the tax applies to the gross proceeds of such sales.

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(4) The drilling or prospecting for oil, gas, brine or other natural resources does not constitute industrial processing. Sales of equipment, materials and supplies used in exploring for natural resources and sales of equipment and materials used in the drilling of oil, gas and brine wells are taxable.

(5) The actual production of oil, gas, brine or other natural resources constitutes industrial processing and exempts from application of the tax casing pipe and drive pipe commonly known as 8-inch or under (8⅝-inch O.D.); tubing; well-pumping equipment; chemicals, explosives and acids used in fracturing, acidizing or shooting wells; Christmas trees and other well-head equipment; treatment tanks; piping, valves and pumps used before movement or transportation of the natural resource from the production area; and chemicals and acids used in treating such crude oil, gas, brine or other natural resources.

(6) The storage of oil, gas, brine or other natural resources (including underground storage) does not constitute industrial processing. Sales of equipment, material and supplies used in the storing, withdrawing or distribution of oil, gas or brine from a storage facility are taxable.

History: 1944 AC, p. 1336; 1944 ACS 31, p. 22; 1954 AC, p. 928; 1954 ACS 29, p. 8, Eff. Feb. 14, 1962; 1954 ACS 42, p. 10, Eff. May 15, 1965; 1954 ACS 71, p. 9, Eff. May 31, 1972.

R 205.100 Tombstones, markers, and other memorials.

Rule 50. (1) Memorial dealers are retailers of tombstones, markers and other memorials sold by them and also of the materials used in setting a memorial in the cemetery. Such sales are subject to tax.

(2) If the memorial dealer furnishes a memorial and sets it in the cemetery for a lump sum, the tax applies to the entire amount charged. If a separate and additional charge is made for the labor of setting the memorial, the tax does not apply to this labor charge. No deduction may be made of charges for cutting, shaping, polishing or lettering a memorial or for transporting it to the cemetery.

(3) When a cemetery constructs the foundation upon which a memorial is placed and collects the charges therefor from the memorial dealer who then either collects that amount from his customer or includes it in the charge for the memorial, the memorial dealer is the retailer of the foundation or the material used therein and must pay the tax on it. The cemetery in this case is deemed to be acting as the agent of the memorial dealer in constructing the foundation.

(4) If the cemetery collects the charges for foundations directly from customers of the memorial dealer, the cemetery is the retailer and must pay the tax to the state on the charges for the foundations or for the materials alone when the latter are charged separately.

History: 1944 AC, p. 1336; 1954 AC, p. 928.

R 205.101 Morticians, undertakers, and funeral directors.

Rule 51. (1) Morticians, undertakers, and funeral directors are construed to be rendering a service beyond the selling of tangible personal property, therefore, their sales are taxable as follows.

(2) Where a lump sum charge is made for the ordinary funeral, consisting of the casket complete with rough box, embalming and care of the deceased, use of hearse, limousine, funeral chapel and establishment and professional services, it is assumed that 50% of such lump sum charge is tangible personal property and subject to the tax.

(3) The tax will apply to the entire charges made on purchases that are not included in lump sum billing which may be in the nature of extras. The tax will not apply to accommodation cash advances for such items as cemetery charges, newspaper notices, railroad tickets, ministerial fee, choir, etc.

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(4) If the casket and other tangible personal property furnished for a funeral are segregated on the invoice and also in the records of the undertaker, the tax applies to the price charged for each item of tangible personal property, provided such price is the fair retail value of such personal property.

(5) Direct sales to a governmental entity are exempt. This exemption does not include payments from social security benefits, veterans' administration benefits, and similar participation benefits accruing to the deceased under various federal and state laws.

(6) All equipment, ambulances, hearses, embalming equipment and materials, chapel furnishings, etc., are presumed to be used or consumed by the mortician, undertaker or funeral director in rendering a service and such sales to them are subject to the tax. Generally speaking, these commodities are classified as trade tools or equipment that have more than a 1 time use.

History: 1944 AC, p. 1337; 1954 AC, p. 929; 1954 ACS 69, p. 25, Eff. Nov. 1, 1971.

R 205.102 Multigraphers and mimeographers.

Rule 52. (1) Sales of tangible personal property by multigraphers, mimeographers, and similar establishments are taxable, except when for resale or to be used in "industrial processing" (R 205.90).

(2) A multigrapher or mimeographer may not deduct from the selling price of an item, the labor or other service charge in performing the job even though it is shown separately and regardless of when the services are performed. The labor cost is considered part of the cost of the article sold. Amount paid for postal privileges never becomes part of the price upon which tax is figured.

(3) When a customer furnishes his own printed paper stock and a multigrapher or mimeographer imprints thereon the name, address, telephone number, etc., this is merely service and not taxable.

(4) If government post cards or stamped envelopes are furnished by the customer to the multigrapher or mimeographer, receipts for imprinting the cards or envelopes are not taxable.

(5) Sales to multigraphers and mimeographers of equipment and materials consumed or used directly in the processing of their product are not taxable. However, when sold to persons not regularly engaged in mimeographing or multigraphing for sale, they are taxable.

(6) This rule also applies to persons engaged in the business of conducting a letter service for others, regardless of the method used to produce such letters.

History: 1944 AC, p. 1337; 1944 ACS 31, p. 22; 1954 AC, p. 929; 1954 ACS 69, p. 25, Eff. Nov. 1, 1971.

R 205.103 Newspapers, magazines, and other publications.

Rule 53. (1) The sale or purchase of the following types of newspapers and periodicals is exempt from application of sales or use taxes:

(a) As admitted under present federal postal laws and regulations as second class mail matter.

(b) As admitted under present federal postal laws and regulations as controlled circulation publications.

(c) Qualified to accept legal notices for publication in this state.

(d) Of general circulation if established at least 2 years and published at least once a week.

(2) All tangible personal property used or consumed and not becoming a component part of newspapers and periodicals is subject to tax. (See R 205.113.)

History: 1944 AC, p. 1337; 1944 ACS 31, p. 23; 1954 AC, p. 930; 1954 ACS 7, p. 14, Eff. Aug. 14, 1956; 1954 ACS 69, p. 26, Eff. Nov. 1, 1971.

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R 205.104 Optometrists, ophthalmologists, opticians, and optical supply houses.

Rule 54. (1) Licensed optometrists and ophthalmologists who examine, prescribe, and dispense eyeglasses and contact lenses are considered for sales tax purposes to be making retail sales. A sales tax license is required for this activity.

(2) Sales of eyeglasses prescribed or dispensed to correct a person's vision by an ophthalmologist, optometrist, or optician, and repair and replacement parts for such eyeglasses, are exempt. Contact lenses are taxable, except when prescribed by an optometrist or ophthalmologist for a specific disease which precludes the use of eyeglasses. Examination charges when billed separately are exempt.

(3) Sales by opticians and optical supply houses to optometrists and ophthalmologists are exempt in both of the following situations:

(a) When sold for resale, provided the optometrist or ophthalmologist is properly registered as a retailer as noted in subrule (1).

(b) When sold pursuant to a specific prescription, except as noted in subrule (2).

(4) Sales of machinery and apparatus used directly in the manufacture of eyeglasses for resale are not taxable. Sales of all other equipment and materials to opticians are taxable.

(5) Sales at retail by a person regularly engaged in any of the businesses mentioned above of stock accessories, such as sunglasses, barometers, thermometers, telescopes, opera glasses, solutions for cleaning glasses, lorgnettes, chains, ribbons, and similar items, are taxable.

(6) If an optician employs an optometrist or ophthalmologist, and sells eyeglasses directly to the ultimate consumer, the sale will be exempt if in fulfillment of a prescription issued by the optometrist or ophthalmologist.

(7) Physicians acting in the capacity of optometrists or ophthalmologists are subject to this rule. (See R 205.111.)

History: 1944 AC, p. 1337; 1954 AC, p. 930; 1954 ACS 78, p. 6, Eff. Mar. 1, 1974; 1954 ACS 100, p. 62, Eff. July 27, 1979.

R 205.105 Paper and paper products.

Rule 55. (1) The sale of paper or paper products to be used or consumed in "industrial processing" (R 205.90), "agricultural producing" (R 205.51), or as certain "containers" (R 205.68) is not taxable. However, responsibility for the tax is upon the person selling to the consumer and the seller should assure himself that the sale is not taxable in accordance with the cited rules.

(2) The sale of paper or paper products to persons regularly engaged in the printing business, which paper actually becomes a part of, or is used directly in the processing of, a printer's product to be sold at retail is not taxable. All other sales, not for resale, of paper or paper products to printers are taxable.

(3) All sales of paper and paper products are taxable when consumed or used by servicers, repairers, professions and other businesses whose gross receipts are not taxable.

(4) The sale of paper or paper products used or consumed in the actual processing of dairy products is not taxable. All other sales of paper or paper products for use in dairies or creameries are taxable.

(5) If in doubt as to the taxability of certain sales, write to the department giving full information as to how the product is actually used or consumed.

History: 1944 AC, p. 1338; 1954 AC, p. 930; 1954 ACS 69, p. 28, Eff. Nov. 1, 1971.

R 205.106 Pawnbrokers.

Rule 56. Pawnbrokers are engaged primarily in the business of lending money for the repayment of which they accept as security tangible personal property

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from the pawner or pledger. In case the pawner or pledger does not redeem the property pledged or pawned within the specified time and the property is forfeited and title rests in the pawnbroker, the gross proceeds realized by the pawnbroker from a subsequent sale of the articles are taxable.

History: 1944 AC, p. 1338; 1954 AC, p. 931.

R 205.107 Pharmacists.

Rule 57. (1) The sale of prescription drugs for human use by a licensed pharmacist is exempt from tax. To qualify for this exemption, the pharmacist shall have a specific prescription as prescribed by a physician or other licensed practitioner of the healing arts.

(2) Retail sales of any apparatus, device, appliance, or equipment used to replace or substitute for any part of the human body, or used to assist the disabled person to lead a reasonably normal life, are exempt when the tangible personal property is purchased on a written prescription or order issued by a licensed health professional. (See R 205.139 for definition of "licensed health professional.")

(3) To support the exemption claimed when filing the required return, a pharmacist shall keep a record showing the date the prescription is issued, the name of the person issuing it, the name of the individual for whose consumption it is issued, the contents of the formula prescribed, and the amount charged to the consumer. This information may appear either in the form of the original prescription attached to a substantial record in chronological order or in a transcribed record in the same order. These records shall be kept for a period of 4 years.

(4) Insulin dispensed by a pharmacist, either with or without a prescription, is exempt from the tax.

(5) The sale to consumers of drugs without a prescription is taxable.

(6) Sales of nonprescription apparatuses, devices, or equipment are taxable. Repair and replacement parts are also taxable.

History: 1944 AC, p. 1338; 1954 AC, p. 931; 1954 ACS 88, p. 45, Eff. Aug. 6, 1976; 1954 ACS 100, p. 62, Eff. July 27, 1979.

R 205.108 Philatelists; antiques, curios, and old coins.

Rule 58. (1) Sales of curios, antiques, art work, coins, postage stamps and like articles to art collectors, philatelists, numismatists or other persons who purchase such items for use or storage and not for immediate resale are sales subject to tax.

(2) Sales of uncancelled United States postage or revenue stamps valid for transportation of mail or for revenue tax purposes are not taxable. Sales of cancelled domestic or foreign stamps or of uncancelled foreign postage stamps not valid for transportation of mail in the United States are taxable.

History: 1944 AC, p. 1338; 1954 AC, p. 931.

R 205.109 Photographers and photo finishers.

Rule 59. (1) The making of photographs for sale is an industrial process, and tangible personal property used and consumed directly in the process is not taxable.

(2) The total amount charged for making photographs, including the camera charge, is taxable. When an order is not received from proofs, the amount of the deposit retained is not taxable.

(3) The development and processing of exposed film or negatives in black and white or in color, and the production of film strips, slides, or prints therefrom, are subject to sales tax on the total price charged to the customer. The purchase of

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machinery, equipment, materials, and supplies used by the processor in processing the exposed film, and in the production of the film strips, slides, and prints, are exempt from tax as being a part of an industrial process.

(4) The coloring or tinting of photographs returned to the photographer for such a purpose is a nontaxable service. However, if the coloring or tinting of the photograph is included in a quoted price, the total amount is taxable.

(5) Sales of cameras, films, frames, and other articles to the consumer are taxable.

(6) Sales of x-ray films to laboratories, physicians, surgeons, and dentists, and to other persons primarily engaged in rendering x-ray services, are taxable.

History: 1944 AC, p. 1338; 1944 ACS 31, p. 23; 1954 AC, p. 931; 1954 ACS 26, p. 26, Eff. May 15, 1961; 1954 ACS 69, p. 27, Eff. Nov. 1, 1971; 1954 ACS 88, p. 45, Eff. Aug. 6, 1976.

R 205.110 Telephone and telegraph.

Rule 60. (1) Use tax applies on income derived from intrastate telephone, telegraph, leased wire, private line, teletypewriter and similar communications services. The tax applies only on such services which both originate and terminate in Michigan.

(2) The tax does not apply on income from coin-operated installations, directory advertising proceeds, or on charges to telephone answering services for switchboards, concentrator-identifiers, interoffice circuitry and their accessories. Charges for lines, stations, toll calls and other services and equipment to such answering services which are normally furnished to a subscriber are taxable.

(3) The tax does not apply on sales of services to the United States government, the state of Michigan, political subdivisions of the state of Michigan or to the American red cross.

(4) The tax does not apply on services sold to schools, hospitals, homes for the aged or children, or other health, welfare, educational or charitable institutions or agencies not operated for profit or benefit to the shareholders.

(5) Sales or use tax applies on purchases of tangible personal property by sellers of taxable communication services except exemption will prevail on the necessary exchange equipment and on the tangible personal property acquired for installation on the premises of the subscriber.

(6) Sales or use tax will apply on tangible personal property purchased and used in providing the exempt services noted in preceding paragraphs.

History: 1944 AC, p. 1339; 1944 ACS 31, p. 23; 1954 AC, p. 932; 1954 ACS 26, p. 27, Eff. May 15, 1961; 1954 ACS 29, p. 9, Eff. Feb. 14, 1962; 1954 ACS 34, p. 8, Eff. May 15, 1963.

R 205.111 Physicians, surgeons, dentists, veterinarians, osteopaths, and other practitioners.

Rule 61. (1) Physicians, surgeons, dentists, veterinarians, osteopaths or other practitioners of the healing arts not otherwise specifically provided for in these rules render nontaxable services.

(2) Sales of drugs, medications, instruments, equipment and other tangible personal property to such persons for use in rendering professional services or in connection with their office, laboratory or other similar quarters are taxable.

(3) Sales by dental supply houses and others to dentists or dental laboratories of materials, supplies and equipment used in the rendition of their services are taxable.

(4) If a dental laboratory sells to dentists tangible personal property in its original form upon which no professional services are performed such as cement, gold, cleaning preparations, etc., then such sales shall be considered as sales at

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retail and the dental laboratory so engaged must obtain a sales tax license and pay the tax on these sales.

History: 1944 AC, p. 1339; 1954 AC, p. 932; 1954 ACS 26, p. 27, Eff. May 15, 1961; 1954 ACS 78, p. 7, Eff. Mar. 1, 1974.

R 205.112 Premiums and gifts.

Rule 62. (1) Donors of tangible personal property are regarded as consumers thereof and the sale of such property to them is taxable. The sale of goods to be given away for advertising purposes is taxable.

(2) If goods purchased for resale are subsequently given away or used by the retailer, he must include in his use tax return the cost of such goods and pay the tax thereon.

(3) The redemption of trading stamps for premiums is a taxable sale at retail and sales tax is to be paid on the redemption value of the stamps. Sales tax will not apply on stamps redeemed for cash rather than for merchandise. Premiums acquired for "resale" purposes are not subject to sales or use tax.

(4) Purchasers of property to be awarded as prizes, the winning of which depends upon chance or skill, are regarded as consumers thereof and the tax applies to sales of such property to them. Sales of tangible personal property to the operator of a game of skill or chance or similar device are taxable as he is considered the consumer of property used in connection therewith.

History: 1944 AC, p. 1339; 1954 AC, p. 932; 1954 ACS 26, p. 27, Eff. May 15, 1961.

R 205.113 Printers, lithographers, photostaters, typographers, and blueprinters.

Rule 63. (1) Sales of tangible personal property by printers, lithographers, photostaters, typographers and blueprinters are taxable except when such sales are for resale purposes or used in "industrial processing." (See R 205.90.)

(2) Labor charges involved in producing the property for sale cannot be deducted from the selling price regardless of whether or not the charge is billed separately on the sales invoice. The labor cost is considered as part of the "gross proceeds" derived from the sale.

(3) If a customer furnishes his own printing stock which was acquired from another source and the printer imprints thereon the name, address and telephone number, this constitutes the rendition of a service and is not taxable.

(4) Purchases of tangible personal property by a printer, lithographer, photostater, typographer or blueprinter are not taxable when such materials are to be consumed in the producing of a product for resale. (See R 205.90.)

History: 1944 AC, p. 1340; 1954 AC, p. 933; 1954 ACS 26, p. 28, Eff. May 15, 1961; 1954 ACS 69, p. 27, Eff. Nov. 1, 1971; 1954 ACS 78, p. 7, Eff. Mar. 1, 1974.

R 205.114 Professional shoppers.

Rule 64. (1) When a professional shopper purchases tangible personal property either in his own name or in the name of his client, such sales are taxable without deduction for any commission or other compensation of the shopper.

(2) The commission or other compensation paid to professional shoppers employed by retailers to assist customers in selecting and purchasing tangible personal property is not deductible from the selling price of such property on which the tax applies.

History: 1944 AC, p. 1340; 1954 AC, p. 933.

R 205.115 Public utilities; gas, electricity, and steam.

Rule 65. (1) Sales of tangible personal property, including sales of gas, electricity, and steam by public and private utilities, are subject to sales tax, except in

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those cases wherein the purchaser is entitled to exemption as specifically provided in the sales and use tax statutes. (See R 205.51 and R 205.90.)

(2) When gas, electricity, or steam is sold to a customer for 2 or more purposes through 1 meter, and 1 of the purposes is taxable while another is exempt, the total consumption as shown by the meter is taxable, except where it is impractical to install separate meters and the consumption for each use can be substantiated in a manner acceptable to the department. On sales of electricity to farmers, if the farmer's total electrical consumption exceeds 1,500 kwh per month, or 2,500 kwh per month for a home with electric heat, during the period of November to March, the consumption in excess will be considered exempt if the farmer provides the seller with the prescribed agricultural producing exemption certificate.

(3) The sale of tangible personal property is not taxable when consumed or used in the process of manufacturing or generating electricity, gas, or steam which is taxable when sold at retail. Transformers used in industrial processing are not taxable.

(4) The sale of tangible personal property consumed or used in the transmission or distribution of electricity, gas, or steam is taxable. Such transmission or distribution starts at the place where the product leaves the immediate premises from which it is manufactured.

(5) When a public utility uses or consumes its own product for purposes not included in "industrial processing" (see R 205.90), the tax applies upon the basis of the cost of the part of its product thus used.

History: 1944 AC, p. 1340; 1954 AC, p. 933; 1954 ACS 26, p. 28, Eff. May 15, 1961; 1954 ACS 69, p. 27, Eff. Nov. 1, 1971; 1954 ACS 100, p. 62, Eff. July 27, 1979.

R 205.116 Restaurants, hotels, lunchrooms, and other establishments.

Rule 66. (1) The tax applies to sales of meals, foods, or beverages of any kind, and to sales of other tangible personal property, by restaurants, hotels, cafes, bars, caterers, lunch counters, lunch wagons, and other establishments engaged in the business of preparing and selling food or beverages for direct consumption, on or off the premises.

(2) The tax applies to the cover or minimum charge and all other charges, except to those charges for entertainment and dancing, separately listed on the bill or collected as an admission fee or fixed charge.

(3) When food is delivered or served at a location other than the place of business of the retailer or in a room other than a regular dining room, and an extra charge is made for that service, the entire amount is taxable.

(4) Banquets, dinners, and similar functions served by hotels or other establishments covered by this rule are subject to tax at the contracted price per plate or seat, or at the minimum price, whichever is greater. Charges for flowers are taxable.

(5) Amounts paid as a gratuity and distributed to the employees as a gratuity, and not as a wage, are not considered as part of the tax base when that gratuity is separately identified and itemized on the guest check or billed to the customer. All service charges in connection with the transfer of tangible personal property shall be included as part of the tax base.

(6) All tools, equipment, and materials used or consumed in the preparation of food or beverages for retail sale are taxable. Materials which become an ingredient or component part of the prepared food or beverage may be purchased for resale by the preparer, tax exempt.

(7) Meals provided to employees are taxable. When provided without charge, the actual cost of the meals shall be taxed at the cost shown by the employer's

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records. When records are not available, each meal furnished shall be taxed at the cost of 45 cents a meal. The actual number of meals served shall be taxed if satisfactory records are maintained to establish the number. If the employer furnishes board and room, it is presumed that 3 meals a day per employee are served 7 days a week. If meals only are provided, it is presumed that 2 meals a day per employee are served each working day.

(8) Fraternities, sororities, and other student societies, with members residing at a common location and jointly sharing household expenses, including meals, are not considered to be selling at retail. Sales to these organizations of tangible personal property, other than food and nonalcoholic beverages for preparation and consumption at the consumer's location, are subject to tax.

History: 1944 AC, p. 1340; 1944 ACS 31, p. 24; 1954 AC, p. 934; 1954 ACS 28, p. 28, Eff. May 15, 1961; 1954 ACS 42, p. 11, Eff. May 15, 1965; 1954 ACS 69, p. 28, Eff. Nov. 1, 1971; 1954 ACS 88, p. 46, Eff. Aug. 6, 1976.

R 205.117 Repairers and servicers.

Rule 67. (1) Persons regularly and exclusively engaged in the business of repairing, improving, or altering tangible personal property owned by others, in which work the value of the material used is incidental or negligible, render a nontaxable service. Sales of equipment, materials, and supplies to such persons are taxable. For example, sales to the following are taxable: Bootblacks, cleaners and dyers, garment repairers, jewelry and watch repairers, linen suppliers and laundries, radio repairers (radio tubes not being considered repair material), refrigerator repairers, small tool sharpeners, and welders.

(2) Sales for resale to a person who has a sales tax license and an established business of one of the following types are not taxable, but sales to such a person of all other tangible personal property are taxable: Automobile repairers or garages, electrical repairers, machinery repairers, upholsterers and furniture repairers, and shoe repairers.

(3) Persons selling tangible personal property in addition to providing labor or service shall obtain a sales tax license and pay the tax on their sales of tangible personal property, including such property sold in connection with repair work. When both labor and service charges are involved in repair work for others, the retailer shall separately itemize the amount charged for the tangible personal property sold; otherwise, the tax shall apply to the total gross proceeds.

(4) A person engaged in a repair or service business not specifically covered may write the department for information.

History: 1944 AC, p. 1341; 1954 AC, p. 934; 1954 ACS 88, p. 46, Eff. Aug. 6, 1976.

R 205.118 Shoe repairers.

Rule 68. (1) When persons in the business of repairing shoes affix soles, heels, laces, sewing thread, nails, etc., to the property of their customers they sell tangible personal property at retail and also render services. It shall be considered that of the amount received by them for repairing shoes, etc., the taxable sale of tangible personal property is 35% and the sale of the nontaxable services 65% of such amount.

(2) The sale of leather, heels, laces and other shoe findings by shoe repairers (not used in connection with repair work but sold directly to purchasers for use) is taxable on the full amount of such sale.

(3) Vendors who sell machinery, tools and other equipment to shoe repairmen are subject to either the sales or use taxes, as the case may be, on the full amount of such sales.

History: 1944 AC, p. 1341; 1954 AC, p. 934.

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R 205.119 Sign painting.

Rule 69. (1) The painting and selling of detached metal, wood, cardboard or paper signs constitute a retail sale and tax applies on the full selling price without deduction for any costs incurred in producing the sign.

(2) A sign painter, working on the property of others, is a servicer and a sales tax license is not required unless, in addition to this work, he also makes retail sales of manufactured signs. Sales of tangible personal property to sign painters for use or consumption in performing services for others are taxable.

History: 1944 AC, p. 1341; 1954 AC, p. 935; 1954 ACS 28, p. 29, Eff. May 15, 1961.

R 205.120 Small loans.

Rule 70. Persons regularly engaged in the business of granting loans, the repayment of which is secured by tangible personal property, are deemed to be in the business of selling at retail, insofar as the sale of such property is necessitated by the default of the loanee. Such persons engaged in the small loan business should obtain a sales tax license and remit the tax to the state on sales of such property.

History: 1944 AC, p. 1341; 1954 AC, p. 935.

R 205.121 Social and fraternal organizations.

Rule 71. (1) The sale of tangible personal property to all social and fraternal organizations is taxable. Such organizations include fraternal societies, trade or professional associations, lodges, orders and their auxiliaries and other similar organizations.

(2) If such an organization operates a cafeteria, soda fountain or other eating or beverage place of business or sells athletic equipment, clothing or other tangible personal property, it shall obtain a sales tax license and pay the tax to the state on total receipts from such sales. However, such organization is entitled to a deduction on its tax return of the amount on which it paid the tax when purchasing the property.

History: 1944 AC, p. 1341; 1954 AC, p. 935; 1954 ACS 7, p. 14, Eff. Aug. 14, 1956.

R 205.122 Tailors, clothiers, dressmakers, and milliners.

Rule 72. (1) Total gross receipts from all sales of tangible personal property by custom tailors, clothiers, dressmakers and milliners for consumption or use are taxable, with no deduction for services or other costs.

(2) When such a person does not provide the goods worked upon and sells services only, such services are exempt even though they include incidental and negligible items of material like thread, tape, buttons, etc., but the sale of such items to him are taxable.

(3) Where ready-to-wear suits, dresses, hats, etc., are sold at an established price, charges for alterations are not taxable only if charged separately. If such alterations involve the sale of material such as linings, trimmings, etc., the tax applies to the total charge unless the material is billed separately.

History: 1944 AC, p. 1342; 1954 AC, p. 935.

R 205.123 Theaters and motion picture houses.

Rule 73. (1) Sales to theaters, motion picture houses, and other similar places or sources of amusement or entertainment are taxable. Such sales include equipment and fixtures of all kinds and materials used in constructing, altering, improving or repairing buildings, grounds, fixtures or equipment.

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(2) Where such establishments also sell tangible personal property directly or indirectly to the ultimate consumer, the sales tax rules applicable to the particular kind of sales or class of business will govern. For indirect sales R 205.95, "Leased departments," and R 205.70, "Consignments," will apply.

History: 1944 AC, p. 1342; 1954 AC, p. 935; 1954 ACS 26, p. 29, Eff. May 15, 1961.

R 205.124 Transportation charges.

Rule 74. For the purpose of computing the tax, no deduction is allowable on account of freight, express, mail, cartage or other transportation or delivery charges incurred or to be incurred on tangible personal property prior to completion of transfer of ownership of such property from the seller to the purchaser for use or consumption. It is immaterial whether such transportation charges are billed separately or whether they are paid by the seller or the purchaser.

History: 1944 AC, p. 1342; 1954 AC, p. 936.

R 205.125 Upholsterers and furniture repairers.

Rule 75. (1) A furniture repairer or upholsterer primarily renders services and is considered the consumer of incidental items like glue, tacks, nails, paints, varnishes, etc. Sales to him of such items are taxable.

(2) However, sales by an upholsterer or furniture repairer of replacement material such as tapestries, cloth, springs, etc., are taxable. He must obtain a sales tax license and pay the tax to the state. When tangible personal property is sold with repair work, the tax applies to the entire charge unless the taxable items are separately itemized.

(3) Sales of machinery, tools, etc., to furniture repairers and upholsterers for use in their business are taxable.

History: 1944 AC, p. 1342; 1954 AC, p. 936.

R 205.126 Vending machines and other automatic sales devices.

Rule 76. (1) The gross receipts from sales of tangible personal property through vending machines and other automatic sale devices are taxable, except for sales of milk, juices, fresh fruit, candy, nuts, chewing gum, cookies, crackers, and chips. It is immaterial whether the sales are made for money, coins, tokens, or coupons redeemable in money or merchandise. If both taxable and exempt merchandise is sold through the same vending machine, sales tax applies on the total gross proceeds from that machine, unless it can be determined and substantiated to the satisfaction of the department that a percentage or other apportionment is equitable or practical.

(2) The operator of a nonelectric vending machine business, having sales of merchandise wherein the consideration is 10 cents or less, may deduct from the operator's gross proceeds the commissions paid to an exempt nonprofit entity, if the sales are of unsorted nuts, confections, or other merchandise, dispensed at random in substantially equal portions upon insertion of a coin.

(3) The business operator of a vending machine or other automatic sales device is defined, for the purpose of this rule, as the person who, personally or through an agent, removes the coins or other means of payment from the machines and is responsible for their disposition.

(4) The business operator of a vending machine or other automatic sales device shall maintain a sales tax license and shall pay the tax to the state on all taxable sales made through every such machine or device operated by that person.

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(5) It is immaterial whether the business operator owns the machine or the merchandise sold thereby. If merchandise belonging to another is sold, the merchandise shall be considered consigned or entrusted to the control of the business operator for sale. (See R 205.70—Consignments.)

(6) The name, address, and sales tax license number of its current business operator shall appear at all times on every vending machine or other automatic sales device from which tangible personal property is sold.

(7) Sales or purchases of vending machines and parts, as well as the tools and equipment for the maintenance thereof, are subject to sales or use tax. Machines used in retail vending of tangible personal property cannot qualify as exempt equipment acquired for "industrial processing" purposes.

History: 1944 AC, p. 1342; 1954 AC, p. 936; 1954 ACS 29, p. 9, Eff. Feb. 14, 1962; 1954 ACS 88, p. 47, Eff. Aug. 6, 1976; 1954 ACS 100, p. 63, Eff. July 27, 1979.

R 205.127 Water.

Rule 77. (1) Sales of water when delivered in bottles, containers or in any manner other than through mains or in bulk tanks in quantities of not less than 500 gallons to a consumer, are taxable, regardless of the use or purpose of the water unless exempt under R 205.90, "Industrial processing" or R 205.51, "Agricultural producing."

(2) The sale of equipment, tools, machinery, pipes, fittings and supplies to a person for consumption or use in distributing and carrying water is taxable.

History: 1944 AC, p. 1343; 1954 AC, p. 936; 1954 ACS 7, p. 14, Eff. Aug. 14, 1956.

R 205.128 Federal and state taxes.

Rule 78. (1) Federal manufacturers' excise taxes imposed on the following products are not deductible from a retailer's gross proceeds in computing sales or use taxes: Trucks, buses, tractors, accessories and similar products, tires and tubes, gasoline and lubricating oil, fishing equipment, and firearms.

(2) The federal retailers' excise taxes imposed on the following products are deductible from a retailer's gross proceeds in computing sales or use taxes: Diesel fuel, liquid petroleum gas, and other special motor fuels.

(3) The federal communications tax imposed on persons using communication services is not part of the tax base for computing the use tax on such services.

(4) Michigan taxes which are deductible when included in gross are as follows:

(a) Motor fuel retailers may deduct from gross proceeds on their sales tax return the amount of Michigan motor fuel tax paid to the state or to the distributor.

(b) The Michigan cigarette tax may be deducted only by taxpayers engaged in the business of selling cigarettes at retail if the seller is not enriched by collecting the sales tax on the full selling price.

History: 1944 AC, p. 1343; 1954 AC, p. 937; 1954 ACS 26, p. 29, Eff. May 15, 1961; 1954 ACS 29, p. 10, Eff. Feb. 14, 1962; 1954 ACS 34, p. 9, Eff. May 15, 1963; 1954 ACS 69, p. 28, Eff. Nov. 1, 1971; 1954 ACS 88, p. 47, Eff. Aug. 6, 1976.

R 205.129 Peddlers and street vendors.

Rule 79. (1) Peddlers and street vendors who do not have regularly established places of business, and not licensed pursuant to the sales tax act, are deemed to be the final users or consumers of the tangible personal property which they purchase. Therefore, persons selling tangible personal property to such persons are making sales at retail, the receipts from which are subject to the sales tax.

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(2) Peddlers and street vendors must pay the Michigan use tax on purchases of tangible personal property purchased from outside the state. Such peddler or street vendor may pay such use taxes to his supplier, provided such supplier is authorized to collect use taxes for the state, otherwise, such peddler or street vendor shall be liable for payment of such use taxes directly to the state.

History: 1944 AC, p. 1343; 1954 AC, p. 937.

R 205.130 Tire retreading and vulcanizing.

Rule 80. (1) Gross receipts from retail sales of retreaded tires are taxable. When a person in the business of retreading tires purchases old tires and retreads and sells them to consumers or users, the sales tax applies to the full retail selling price of the tires. Sales of equipment and supplies used for retreading and vulcanizing tires for retail sale are exempt.

(2) When tires are supplied by a customer for retreading or vulcanizing, the sales tax shall apply on the selling price of the materials sold. Labor charges, billed separately to the customer, are not taxable. The materials consumed directly in the retreading or vulcanizing of tires may be purchased for resale without tax. However, sales of all equipment used for retreading and vulcanizing tires for others are taxable.

(3) If tires that require retreading or vulcanizing are traded in or credited for tires that have been retreaded or vulcanized, or for the purchase of other tires, the sales tax applies to the full selling price of the tires accepted by the purchaser.

History: 1944 AC, p. 1344; 1954 AC, p. 938; 1954 ACS 88, p. 47, Eff. Aug. 6, 1976.

R 205.131 Vessels and watercraft.

Rule 81. (1) Sales of vessels designed for commercial use of registered tonnage of 500 tons or more, when produced upon special order of the purchaser, are exempt from tax. Also nontaxable are sales of bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of those vessels of 500 tons or more, if those vessels travel from a point in Michigan to a destination in another state. Sales of such items for the use of vessels operating in foreign commerce are taxable.

(2) All sales and purchases of vessels and watercraft, except those noted in subrule (1), are subject to sales or use tax. Persons acquiring watercraft from other than a registered retailer shall be required to pay the use tax to the secretary of state at the time of registration. (See R 205.135—Isolated vehicle, aircraft, watercraft, and snowmobile transfers.)

(3) Sales of fuel and supplies for use on commercial fishing or pleasure craft are subject to tax.

(4) Sales of food for resale on vessels plying the Great Lakes are exempt if the vessel operator has a sales tax license and remits tax on all sales within the territorial waters of Michigan.

History: 1944 AC, p. 1344; 1954 AC, p. 938; 1954 ACS 42, p. 11, Eff. May 15, 1965; 1954 ACS 69, p. 29, Eff. Nov. 1, 1971; 1954 ACS 88, p. 48, Eff. Aug. 6, 1976.

R 205.132 Rentals.

Rule 82. (1) A person engaged in the business of renting or leasing tangible personal property to others shall pay the Michigan sales or use tax at the time he purchases tangible personal property, or he may report and pay use tax on the rental receipts from the rental thereof. A person remitting tax on the purchase

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price as a purchaser-consumer or remitting tax on rental receipts as a lessor, shall follow 1 or the other methods of remitting for his entire business operation. A person remitting tax on rental receipts shall be the holder of a sales tax license, or a registration as is provided in the use tax act. Each month such lessor shall compute and pay use taxes on the total rentals charged.

(2) A lessor remitting tax on rental receipts may deduct direct rentals to the United States, the state of Michigan or its local governmental entities, churches (excluding vehicles), schools and other qualified nonprofit institutions or agencies, or to persons or concerns for use in agricultural producing or industrial processing. However, rentals to construction contractors engaged in contract work for such entities are taxable.

History: 1954 ACS 7, p. 14, Eff. Aug. 14, 1956; 1954 ACS 29, p. 10, Eff. Feb. 14, 1962; 1954 ACS 71, p. 9, Eff. May 31, 1972.

R 205.133 Advertising agencies.

Rule 83. (1) The primary function of an advertising agency is to plan, create and arrange for production of advertising on the special order of clients. Their activities are in the nature of special creative services. Part of their services consist in ordering the services, publication space, and the materials necessary to produce advertising as directed by the client. For the convenience of the client it is the practice for the agency to pay for these services and materials and to re-bill the client. The compensation of the agency is derived from discounts available to agencies, but not to advertisers from publications, and from percentage charges added to the cost of services and materials acquired for the client. The practice is to attach invoices from the suppliers to the agency invoice to the client. These activities constitute a service and not a purchase and resale of tangible personal property.

(2) Materials and supplies purchased by the agency and consumed in the operation of the agency are taxable except when such materials or supplies are purchased and are exempt by reason of R 205.69 or R 205.103. When an advertising agency goes beyond the rendition of services and enters the business of selling matrices, sales manuals, record books, advertising novelties, data books, and other tangible personal property, it is required to be licensed and to remit the proper tax.

History: 1944 ACS 31, p. 25; 1954 AC, p. 938.

R 205.134 Radio and television stations.

Rule 84. (1) Sales of tangible personal property to operators of licensed commercial radio or television stations are taxable except when such property is used as a component in the direct production of a film, tape or recording produced for resale or transmission purposes. Production begins at the time of the electronic processing of the signal in the studio and ends at the point at which the signal leaves the studio production equipment and begins transmission to the transmitter.

(2) When a station makes retail sales of cook books or other books, toys, gadgets, nursery stock, building plans, pictures or other tangible personal property, the persons owning such station shall also hold a sales tax license and remit the tax.

History: 1944 ACS 31, p. 25; 1954 AC, p. 938; 1954 ACS 7, p. 15, Eff. Aug. 14, 1956; 1954 ACS 71, p. 10, Eff. May 31, 1972.

R 205.135 Isolated vehicle, aircraft, watercraft, and snowmobile transfers.

Rule 85. (1) The use tax applies on the transfer of vehicles, aircraft, watercraft, and snowmobiles between persons other than for resale by registered dealers. The

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tax shall be collected by the Michigan secretary of state before the transfer of any vehicle title or watercraft or snowmobile registration. The tax due on aircraft shall be paid directly to the revenue division, department of treasury, by the purchaser.

(2) All vehicles, aircraft, watercraft, and snowmobiles brought into the state of Michigan for registration purposes within 90 days after the date of purchase are taxable, unless the unit was properly registered by the purchaser in the state or country of purchase, thus signifying the intent of having purchased the unit for first use and consumption in that jurisdiction.

(3) Exemption from use tax is allowed only under the following conditions:

(a) When the transferee or purchaser is the spouse, mother, father, brother, sister, or child of the transferor.

(b) When the transfer is a gift to a beneficiary in the administration of an estate. Sales by an administrator of an estate are taxable.

(c) When a vehicle, aircraft, watercraft, or snowmobile which has once been subjected to sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business in which the beneficial ownership is not changed.

(4) Vehicles, aircraft, watercraft, or snowmobiles purchased as part of the total assets of a business are taxable. The tax due shall be computed on the actual book value of the property at the time of transfer.

(5) The base price to be used in computing the tax liability shall not be less than its retail dollar value as listed in any recognized guide for use or appraisal purposes.

(6) Questions regarding taxability of specific transactions shall be referred to the revenue division, department of treasury.

History: 1954 ACS 29, p. 11, Eff. Feb. 14, 1962; 1954 ACS 34, p. 9, Eff. May 15, 1963; 1954 ACS 42, p. 12, Eff. May 15, 1965; 1954 ACS 71, p. 10, Eff. May 31, 1972; 1954 ACS 100, p. 63, Eff. July 27, 1979.

R 205.136 Food for home consumption.

Rule 86. (1) Retail sales of food for human consumption normally considered as grocery items for home consumption are tax exempt.

(2) Alcoholic products, such as beer, wine, and liquor, are taxable.

(3) Tobacco and tobacco products are taxable.

(4) Prepared food intended for immediate consumption is taxable. All prepared food and drink items sold by a restaurant, coffee shop, cafeteria, short order cafe, luncheonette, lunch counter, grill, tea room, take-out food service, drive-in, or similar establishments, are taxable.

(5) Prepared food sold by various organizations, such as churches or charitable, benevolent, social, or fraternal groups, including fund raising projects, is taxable. Such organizations shall have a sales tax license for the purpose of reporting the tax due.

(6) Sales of prepared food and drink by a caterer are subject to tax.

(7) Sales of prepared food cooked to the order of the purchaser, or maintained at a temperature higher than normal room temperature, are taxable.

(8) Vending machine sales of tangible personal property are subject to sales tax, except sales of milk, juices, fresh fruit, candy, nuts, chewing gum, cookies, crackers, and chips. If both taxable and exempt merchandise is sold through the same vending machine, sales tax applies on the total gross proceeds from that machine, unless it can be determined and substantiated to the satisfaction of the department that a percentage or other apportionment of sales is equitable and practical.

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(9) Examples of nontaxable food items normally sold by a grocer or other food retailer for off-premises consumption are listed below to serve as a guide for both the retailer and the consumer.

Baby foods
Bakery products
Baking soda
Boullion cubes
Candy and confectionery
Carbonated beverages
(bottle deposits are exempt)
Candied apples
Caramel-coated popcorn
Cereal and cereal products
Chewing gum (nonmedicated)
Chocolate
Cocoa
Coconut
Coffee and coffee substitutes
Condiments
Cookies
Crackers
Dehydrated fruit and vegetables
Diet food
Dietary supplements
Eggs and egg products
Extracts, flavoring as an
ingredient of food products
Fish and fish products
Flour
Food coloring
Fruit and fruit products
Fruit juices
Gelatin
Health foods
Honey
Ice cream, topping, and novelties
Insulin
Jams
Jellies
Lard
Marshmallows
Mayonnaise
Meat and meat products
Milk and milk products
Mustard
Nuts
Oleomargarine
Olive oil
Olives
Peanut butter
Pepper
Pickles
Pop (bottle deposits are exempt)
Popcorn
Potato chips
Powdered drink mixes
(pre-sweetened or natural)
Prescription drugs
Relishes
Salad dressings and dressing mixes
Salt
Sauces
Sherbets
Shortenings
Soft drinks
Soups
Spices
Sandwich spreads
Sugar, sugar products, and
sugar substitutes
Syrups
Tea
Vegetables and vegetable products
Vegetable juices
Vegetable oils
Vitamins
Yeast

(10) The following examples of nonfood items are subject to tax:

Alcoholic beverages
Cocktail mixes (dry or liquid)
Drugs (nonprescription)
Household supplies
Hot prepared foods
Ice
Nonprescription medicines
Paper products
Pet foods and supplies
Prepared foods for immediate consumption
Soap and soap products
Toothpaste
Water, including mineral and distilled

History: 1954 ACS 88, p. 48, Eff. Aug. 6, 1976; 1954 ACS 100, p. 64, Eff. July 27, 1979.

R 205.137 Air and water pollution.

Rule 87. (1) Tangible personal property purchased for installation as a component part of a water pollution control facility or an air pollution control facility

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for which a tax exemption certificate is issued by the state tax commission is exempt from tax.

(2) When sales or use tax has been paid on tangible personal property which later qualifies for exemption as a result of obtaining a certificate of exemption from the state tax commission, a refund may be requested by the purchaser upon submission of both of the following documents to the revenue division:

(a) A copy of the exemption certificate issued by the tax commission indicating the approved cost of the tangible personal property installed and entitled to exemption.

(b) A copy of the seller's invoice showing the name and address of seller, identification of purchaser, identification of the items purchased, date of purchase, and amount of tax paid to seller.

History: 1954 ACS 100, p. 65, Eff. July 27, 1979.

R 205.138 Energy conversion devices.

Rule 88. (1) Sales of tangible property for a solar, wind, or water energy conversion device to heat, cool, or electrify an existing or new residential or commercial building, or to heat water for use in such buildings, are exempt, provided a tax exemption certificate is obtained from the state tax commission covering the cost of materials used in the installation.

(2) To qualify for this exemption, an application for such a certificate shall be filed with the assessor in the city or township in which the installation will be made. Forms for this purpose are prescribed by the state tax commission.

(3) On those occasions when sales or use tax has been paid on tangible property which has later qualified for exemption as the result of obtaining a certificate of the exemption from the state tax commission, a refund can be obtained by the purchaser upon submission of both of the following documents to the revenue division:

(a) A copy of the exemption certificate indicating the cost of the tangible property installed.

(b) A copy of the purchase invoice showing the specific item or items purchased, date of purchase, and the amount of tax paid.

History: 1954 ACS 100, p. 65, Eff. July 27, 1979.

R 205.139 Medical equipment and appliances.

Rule 89. (1) Retail sales of hearing aids and replacement parts are exempt from tax.

(2) Retail sales of any apparatus, device, appliance, or equipment used to replace or substitute for any part of the human body, or used to assist the disabled person to lead a reasonably normal life, are exempt if purchased on a written prescription or order issued by a licensed health professional. Repair and replacement parts for such items are also exempt.

(3) A "licensed health professional" means a physician, dentist, nurse, podiatrist, optometrist, or other individual licensed, certified, or authorized by the director of the department of public health to practice that specific profession in his or her respective state.

(4) To support the exemption claimed for prescription sales when filing the required tax return, the seller shall keep a record showing the date the prescription was issued, the name of the person issuing it, the name of the individual for whose consumption it was issued, a brief description of the property sold, and the amount charged to the customer. The prescription should be attached to the

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seller's copy of the sales invoice or retained in such a manner as will permit the department to verify the authenticity of the exemption.

(5) Examples of the kind of medical appliances that may qualify for exemption if sold pursuant to a written prescription or order are as follows:

Artificial eyes
Artificial limbs
Braces
Canes
Corrective shoes
Crutches
Dialysis machine
Hydraulic (patient) lifts
Hypodermic syringes & needles
Orthotic supports (bandages, belts, and similar supplies)
Oxygen equipment
Pacemakers
Post-surgical bust forms
Pressure pads
Specially built hospital beds
Stoma appliances (colostomy, ileostomy, ureterostomy, catheters)
Trusses
Walkers
Wheelchairs

(6) Sales of nonprescription apparatus, devices, or equipment, are taxable. Repair and replacement parts are also taxable.

History: 1954 ACS 100, p. 66, Eff. July 27, 1979.

R 205.140 Nonprofit entities.

Rule 90. (1) Sales of tangible personal property and services to properly qualified nonprofit entities for their own use and consumption, but not for resale, are exempt.

(2) The claimant shall meet the following requirements for exemption:

(a) Qualify as a school, hospital, home for the care and maintenance of children or aged persons, and other health, welfare, educational, charitable, or benevolent institutions and agencies.

(b) Be operated by an entity of government, a regularly organized church, religious or fraternal organization, a veterans organization, or a corporation incorporated under laws of the state.

(c) The income or benefit from the operation shall not inure, in whole or in part, to any individuals or private shareholders, directly or indirectly.

(d) The activities of the entity or agency shall be carried on exclusively for the benefit of the public at large and not limited to the advantage, interests, and benefits of its members or any restricted group.

(3) When an exemption is claimed, the seller, at the time of the transfer of the tangible property or services, shall retain, as part of the seller's records, an executed exemption certificate which reads as follows:

CERTIFICATE IS TO BE EXECUTED WHEN TAX-EXEMPT SALE IS MADE TO AN EXEMPT INSTITUTION OR AGENCY

The undersigned hereby certifies that the item or items being purchased are to be used or consumed in connection with the operation of the exempt institution or agency named in the space provided below, and that the consideration for this purchase moves from the funds of the designated institution or agency. In the event this claim is disallowed, the transferee promises to reimburse the seller for the amount of tax involved.

Date _____

_____
Name of exempt institution or agency

_____
Signature and title of person making certification

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(4) The department does not issue so-called "exemption numbers." If there is some question regarding exemption status, the claimant may contact the department for a ruling.

(5) Nonprofit entities engaged in a retail sales activity of any kind are required to have a sales tax license. The fact that the receipts or profits from such sales may be used for otherwise exempt purposes is not material.

History: 1954 ACS 100, p. 66, Eff. July 27, 1979.

INTANGIBLES TAX

(By authority conferred on the department of revenue by section 12 of Act No. 301 of the Public Acts of 1939, as amended, being §205.142 of the Michigan Compiled Laws)

R 205.201 Filing of returns.

Rule 1. (1) No return shall be required under this act from any person not liable to the tax imposed by the act, over and above all exemptions and deductions, except as provided in sections 4, 4a, and 10 of the act or as may be requested by the department of revenue.

(2) Information returns shall be filed in such form as shall be precribed by the department listing by name or description all intangible personal property which is subject to tax under the act and held for an owner for investment or reinvestment as agent, trustee, manager or attorney. Such returns shall also be filed by any person domiciled in or carrying on or transacting business in Michigan, as trustee or agent for another, and who has in his custody any taxable intangible personal property of another for investment or collection. Such information returns shall be filed on or before 90 days after the close of the calendar year unless permission of the department to file on some other date shall have been granted.

(3) It will be unnecessary for information returns to be filed as required in the foregoing provisions if the person having intangible personal property of another in his custody shall file the tax return and pay the tax on such property in behalf of the owner, as defined in the act.

History: 1944 AC, p. 1344; 1944 ACS 5, p. 28; 1954 AC, p. 939.

R 205.202 Records of taxpayer.

Rule 2. (1) Any person liable for any tax under the act must at all times keep such data as shall be necessary to prepare a tax return and preserve the same, at some place in the state of Michigan available to representatives of the department of revenue, for a period of not less than 3 years after the date set for the filing of the return for the tax to which they relate. No particular form of keeping records is required. The records must be sufficient to enable the department of revenue to ascertain whether the tax for which the taxpayer is liable is correctly computed.

(2) Any person making a return under the act shall keep on file a copy thereof and the records pertaining thereto for a period of not less than 3 years after the date of the filing thereof, unless previously audited by the department of revenue, at some place in the state of Michigan available to representatives of the department of revenue.

History: 1944 AC, p. 1344; 1944 ACS 5, p. 28; 1954 AC, p. 939.

R 205.203 Parent and subsidiary companies.

Rule 3. (1) Subsidiary and parent corporations are separate legal entities, and are to be treated as separate entities with respect to their intangible personal property, including their receivables and payables.

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(2) A note owed to a parent corporation by a subsidiary corporation is taxable to the parent company, and, if securities are pledged as collateral therefor, they are taxable to the corporation owning them.

History: 1944 AC, p. 1344; 1944 ACS 5, p. 26; 1954 AC, p. 939.

R 205.204 Rescinded.

History: 1944 AC, p. 1344; 1944 ACS 5, p. 26; 1944 ACS 28, p. 19; 1944 ACS 36, p. 44; 1954 AC, p. 939; rescinded 1954 ACS 48, p. 6, Eff. Nov. 14, 1966.

R 205.205 Other corporation reports.

Rule 5. Every corporation, domestic or foreign, doing business in the state of Michigan, will be required to file with the department of revenue a copy of its return filed annually with the Michigan corporation and securities commission in connection with the payment of its annual privilege fee, concurrently with the filing of the original thereof. In case the department of revenue shall consider that such report does not furnish the necessary information, the department may require a special or supplemental report from the corporation.

History: 1944 AC, p. 1345; 1944 ACS 5, p. 26; 1944 ACS 16, p. 16; 1954 AC, p. 940.

R 205.206 List of stockholders.

Rule 6. Every domestic or foreign corporation, doing business in Michigan, upon request by the department of revenue, shall file with the department a list of its Michigan resident shareholders. Such list shall contain the names, addresses and amount of its stock held by such shareholder, according to the last available records of the corporation. Such list shall also contain a statement of the dividends paid, if any, per share on each class of stock outstanding during the year.

History: 1944 AC, p. 1345; 1944 ACS 5, p. 26; 1944 ACS 16, p. 16; 1954 AC, p. 940.

R 205.207 Rescinded.

History: 1944 AC, p. 1345; 1944 ACS 5, p. 27; 1954 AC, p. 940; rescinded 1954 ACS 48, p. 6, Eff. Nov. 14, 1966.

R 205.208 Worthless securities and debts.

Rule 8. (1) Securities and debts which have definitely been ascertained to be worthless and which have been actually charged off or written off by the taxpayer are not subject to the tax. In the event a court has determined that certain securities in reorganization have no value and do not participate in the liquidation or reorganization, such securities may be considered as worthless and omitted from the return.

(2) Partial charge-offs and reserves for loss on securities or bad debts will not be recognized and may not be deducted for the purpose of computation of the tax.

History: 1944 AC, p. 1345; 1944 ACS 5, p. 27; 1954 AC, p. 940.

R 205.209 Margined or pledged stocks or other intangible property.

Rule 9. (1) Securities purchased on marginal accounts are taxable in full to the purchaser thereof, without deduction of the amount of liens thereon. The broker handling such transactions or holding such securities for the purchaser is deemed to be an agent, acting for and on behalf of the purchaser.

(2) A note which is pledged as security for a loan remains the property of the pledgor. If a note is actually discounted so that the bank or other pledgee becomes the legal owner with merely the right to rely on endorsement of the person

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discounting the note, the bank or pledgee is the owner. The same principle applies to other securities and intangibles.

History: 1944 AC, p. 1345; 1944 ACS 5, p. 27; 1954 AC, p. 941.

R 205.210 Investment trust shares.

Rule 10. Investment trust shares and voting trust certificates are taxable the same as stock in other corporations. It makes no difference whether or not the trust itself is incorporated.

History: 1944 AC, p. 1346; 1944 ACS 5, p. 27; 1954 AC, p. 941.

R 205.211 Employees' stock purchase plans.

Rule 11. Stock acquired under employees' stock purchase plans is taxable in the same manner as other stock unless such plans involve the holding of the shares in a trust in which case the shares will be subject to tax in the same manner as other trust property. As soon as the stock is set aside for the employee and he becomes entitled to receive dividends thereon, if any, the employee becomes the owner within the meaning of the statute and is subject to liability for the tax.

History: 1944 AC, p. 1346; 1944 ACS 5, p. 27; 1954 AC, p. 941.

R 205.212 Goodwill.

Rule 12. Goodwill is not taxable under the intangibles tax act.

History: 1944 AC, p. 1346; 1944 ACS 5, p. 27; 1954 AC, p. 941.

R 205.213 Nonprofit corporations.

Rule 13. Nonprofit corporations are subject to the intangibles tax act, unless they are incorporated under the laws of the state of Michigan and are expressly exempt as being charitable, religious, educational, or scientific institutions.

History: 1944 AC, p. 1346; 1944 ACS 5, p. 27; 1954 AC, p. 941.

R 205.214 Building and loan associations.

Rule 14. (1) Building and loan and savings and loan associations are exempt from the intangibles tax on the ownership of their own intangible personal property. The individual deduction of $20.00 against the amount of the tax does not apply to the tax on stock in building and loan or savings and loan associations. Shares of stock in building and loan associations located outside of Michigan but owned by a resident of Michigan are taxable to such resident.

(2) Every building and loan or savings and loan association engaged in business in Michigan shall pay the tax imposed under this act upon the ownership of its shares of stock for and in behalf of its shareholders. In carrying out the provisions of the act providing for the payment of the tax by such associations in behalf of its shareholders, certain options are open to each association:

(a) Under the provisions of section 3(a) of the act, the association may render the ownership of all its outstanding shares exempt from the tax imposed by this act by voluntarily electing to pay the department an amount equivalent to ⅓ of 1% of that amount of its assets as is equal to the amount of its total outstanding share liabilities as of the close of business on December 31 of each year less the amount of the paid-in value of its shares owned on that date by the federal government or any agency or instrumentality thereof or by the state of Michigan or any of its political subdivisions. Any such association electing to follow this procedure shall so notify the department prior to December 31 of each year by filing with the department a written declaration of its intent. In proceeding under this option the

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return filed by the association shall disclose the total paid-in value of all outstanding shares at the close of business on December 31 and the total paid-in value of shares owned by the governmental units listed above and the amount to be paid shall be computed on the difference between such totals. The department may require the shares claimed to be exempt to be itemized as to ownership but shall not require the listing of any other shareholders. The association will include with its return a copy of its statement of condition as of December 31.

(b) Under the provisions of section 6 of the act, the association may pay the tax and charge the same to the shareholder. In proceeding under this option the return filed by the association shall disclose the total paid-in value of all outstanding shares as of the retroactive date selected each year by the department of revenue and the total paid-in value of outstanding shares owned by persons not subject to the tax, and the amount to be paid shall be computed on the difference between such totals. Included in the class of persons not subject to the tax are any shareholders who owned outstanding shares on the retroactive date but did not own any such shares when the tax is paid by the association, but in no case later than March 31 following the tax year. If the association follows this plan it is entitled to 3% of the total amount of said taxes as compensation for services rendered in acting as the agent of the department in collecting and paying such tax. All shares claimed exempt will be listed, showing the name and address of each such exempt shareholder and the total paid-in value of outstanding shares held by each such shareholder at the close of business on the retroactive date, on which the association is not paying the tax and the reasons by which it contends that no tax is due on such shares. The association will include with its return a copy of its statement of condition as of the retroactive date. The department of revenue may require such additional information as is necessary to substantiate the elimination of any shares from the tax, and may assess the association for any deficiency due to improper computation of the tax due or erroneous exemptions claimed.

(c) Under the provisions of section 6 of the act, the association may pay the tax in behalf of its shareholders and assume the tax imposed upon the owner. In proceeding under this option the return filed by the association shall disclose the total paid-in value of all outstanding shares as of the retroactive date selected each year by the department of revenue and the total paid-in value of outstanding shares owned by persons not subject to the tax, and the amount to be paid shall be computed on the difference between such totals. Included in the class of persons not subject to the tax are any shareholders who owned outstanding shares on the retroactive date but did not own any such shares on the date the tax is paid by the association, but in no case later than March 31 following the tax year. All shares claimed exempt will be listed, showing the name and address of each such exempt shareholder and the total paid-in value of such shares held by each such shareholder at the close of business on the retroactive date, on which the association is not paying the tax and the reasons by which it contends that no tax is due on such shares. The association will include with its return a copy of its statement of condition as of the retroactive date. The department of revenue may require additional information to substantiate the elimination of any shares from the tax and may assess the association for any deficiency due to improper computation of the tax due or erroneous exemptions claimed.

History: 1944 AC, p. 1346; 1944 ACS 5, p. 27; 1944 ACS 16, p. 16; 1954 AC, p. 941.

R 205.215 Banks and trust companies; stocks and deposits.

Rule 15. (1) Banks and trust companies are exempt from the intangibles tax on the ownership of their own intangible personal property but depositors' corpora-

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tions and receivers are subject to the tax. The $20.00 individual deduction against the amount of the tax does not apply to the tax on bank deposits. Money impounded in closed banks is taxable as accounts receivable. Holders of beneficial interest certificates in the segregated assets of closed banks under a trusteeship are taxable on the amount of the balance owing thereon on the same basis as accounts receivable.

(2) All shares of stock in banks and trust companies doing business in this state under whatsoever authority organized shall, irrespective of the domicile of the owner thereof, be deemed to have a situs in this state. Shares of stock of a bank located in any other state and owned by a Michigan resident are not taxable. The tax on shares of stock of state and national banks and trust companies located in Michigan shall be paid by said bank or trust company on behalf of its shareholders annually on or before March 31 of each year and the tax so paid may be charged against the shareholders for whom the tax was paid or assumed by said bank.

(3) Every bank engaged in the business of receiving moneys for deposit subject to check or other withdrawal, upon which a tax is imposed under this act, shall collect and pay the tax imposed thereon. Certificates of deposit constitute deposits within the meaning of the statute and shall be included by the bank with other deposits. Items such as cashier's checks, bank money orders, expense checks and the like shall be considered as cash on hand and items in transit in the hands of the holders (see R 205.216) and may be deducted by the bank in computing the tax on bank deposits. In carrying out the provision of the act which provides for payment of the tax by the banks on behalf of their depositors, certain options are open to each bank:

(a) Under the provisions of section 3a of the act, the bank may render all deposits in it tax exempt to the owner by voluntarily electing to pay to the department an amount equivalent to ⅛ of 1% of that amount of its assets as is equal to the amount of its total deposit liabilities as of the close of business on December 31 of each year less the amount of all its deposit liabilities owing to the federal government or any agency or instrumentality thereof and to the state of Michigan and any political subdivision, instrumentality and agency thereof. Any bank electing to follow this procedure shall so notify the department prior to December 31 of each year by filing with the department a written declaration of its intent. In proceeding under this option the return filed by the bank shall disclose the total of all deposit liabilities at the close of business on December 31 and the total amount of deposits of the governmental units and exempt items listed above and the amount to be paid shall be computed on the difference between such totals. The department may require the deposits claimed to be exempt to be itemized as to ownership but shall not require the listing of any other deposits. The bank will include with its return a copy of its statement of condition as of December 31 in sufficient detail to enable the department to properly check the return.

(b) Under the provisions of section 6 of the act, the bank may pay the tax and charge the same to the depositor. In proceeding under this option, the return filed by the bank shall disclose the total deposit liabilities as of the retroactive date selected each year by the department of revenue and the total deposit liabilities owing to persons not subject to the tax, and the amount to be paid shall be computed on the difference between such totals. Included in the class of persons not subject to the tax are any depositors who had moneys on deposit on the retroactive date but for whom the bank has no moneys or property in its possession on the date the tax is paid by the bank, but in no case later than March 31 following the tax year. If the bank follows this plan it is entitled to retain 3% of the total amount of said taxes as compensation for services rendered in acting as

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the agent of the department in collecting and paying such tax. All deposits claimed exempt will be listed, showing the name and address of such exempt depositor and the balance of their account at the close of business on the retroactive date, on which the bank is not paying the tax and the reasons by which it contends that no tax is due on such deposits. The bank will include with its return a copy of its statement of condition as of the retroactive date. The department of revenue may require such additional information as is necessary to substantiate the elimination of any account from the tax, and may assess the bank for any deficiency due to improper computation of the tax due or erroneous exemptions claimed.

(c) Under the provisions of section 6 of the act, the bank may pay the tax in behalf of its depositors and assume the tax imposed upon the owner. In proceeding under this option, the return filed by the bank shall disclose the total deposit liabilities as of the retroactive date selected each year by the department of revenue and the total deposit liabilities owing to persons not subject to the tax, and the amount to be paid shall be computed on the difference between such totals. Included in the class of persons not subject to the tax are any depositors who had moneys on deposit on the retroactive date but for whom the bank has no moneys or property in its possession on the date the tax is paid by the bank, but in no case later than March 31 following the tax year. All deposits claimed exempt will be listed showing the name and address of such exempt depositor and the balance of each account at the close of business on the retroactive date, on which the bank is not paying the tax and the reasons by which it contends that no tax is due on such deposits. The bank will include with its return a copy of its statement of condition as of the retroactive date. The department of revenue may require additional information to substantiate the elimination of any account from the tax, and may assess the bank for any deficiency due to improper computation of the tax due or erroneous exemptions claimed.

History: 1944 AC, p. 1346; 1944 ACS 5, p. 27; 1944 ACS 16, p. 16; 1944 ACS 36, p. 45; 1954 AC, p. 942.

R 205.216 Moneys on hand.

Rule 16. All cash on hand of any description must be included in the return. This includes uncashed or undeposited checks, bank drafts, money orders, moneys on hand or in transit or in safe deposit boxes or any other place of safe keeping or hiding. The individual deduction of $20.00 against the amount of tax due does not apply to the tax on such items.

History: 1944 AC, p. 1347; 1944 ACS 5, p. 29; 1954 AC, p. 944.

R 205.217 Bonds.

Rule 17. (1) All bonds are taxable unless they are (a) specifically exempted by the statute, or (b) the specific tax was paid thereon prior to September 29, 1939, or (c) unless they are mortgage bonds issued prior to September 29, 1939, and the underlying mortgages cover Michigan property and the mortgage tax on said mortgage was paid prior to the aforementioned date; provided, however, that such bonds with underlying mortgage covering property partly within and partly without the state, are only exempt to the extent that the mortgage tax was paid on the portion of the property within the state.

(2) The following bonds are not taxable: Michigan state college auditorium; university of Michigan stadium; state board of education revenue bonds, under Act 15, Public Acts of 1937, for purchase or construction of buildings at state normal colleges or state normal schools; all United States bonds; postal savings bonds; H.O.L.C. bonds; F.H.A. bonds; federal land bank bonds; national farm

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loan association bonds; all bonds of the state of Michigan or any of its political subdivisions.

(3) Bonds, as well as stocks, of corporations in liquidation or reorganization are taxable at their par, face or contributed value less the proportionate share of any liquidating dividends which have been paid. Each taxpayer shall keep a list of all bonds and mortgages upon which he claims exemption from taxation due to the payment of the specific or mortgage tax thereon. This list shall state the date of payment, the number of the certificate, the name of the instrument, and the designation of the office where the tax was paid.

History: 1944 AC, p. 1347; 1944 ACS 5, p. 29; 1954 AC, p. 944.

R 205.218 Estates in probate.

Rule 18. (1) No estate, in which there is intangible personal property subject to tax under this act, shall be closed without the payment of the tax levied by this act, both in respect to the liability of the estate and the decedent prior to his death. A copy of the inventory and a copy of the final account, in all estates in which there is intangible personal property subject to tax under this act, shall be filed by the fiduciary with the department of revenue, except as hereinafter provided, within 10 days of the filing of the same with the probate court. In the closing of estates the department may accept the inventory and final account in lieu of the filing of a return in cases in which no tax is due, or may require the filing of a return or such additional information as the department may deem necessary.

(2) The intangibles tax is based upon income from intangibles, or face, par or contributed values, and, therefore, appraisal values fixed by appraisers appointed by the court have no bearing upon the computation of the intangibles tax.

(3) Co-executors constitute 1 legal person under the intangibles tax act and should make 1 return and take but 1 individual deduction.

(4) A Michigan estate being administered by an ancillary administrator is subject to tax on intangibles in the estate.

History: 1944 AC, p. 1347; 1944 ACS 5, p. 30; 1954 AC, p. 944.

R 205.219 Income.

Rule 19. (1) The term "income" includes: (a) Interest received upon intangible personal property; (b) dividends and other distributions, whether in the form of cash or property, to the extent that they represent the yield of intangible personal property; and (c) all other earnings or yield of intangible personal property regardless of the name by which designated, provided that for the purpose of computing the tax imposed under this act, the gross income, including taxes, charges and other deductions which may be made therefrom, shall be the basis upon which the tax shall be measured.

(2) Withholding taxes, exchange fees and other charges which may be deducted from dividends or other income shall be disregarded and the gross amount of such income, before the deduction of such charges, shall be the amount used in computation of tax due.

(3) Discounts earned by means of deductions from the face value of notes, conditional sales contracts, chattel mortgages and similar instruments by a holder of or a dealer in such intangible personal property constitute "other earnings or yield of intangible personal property" to such holder or dealer and must be considered as income in the computation of the tax. Any other charges added to a net unpaid balance due from a purchaser, borrower, or vendee for the privilege of making deferred payments constitute other earnings or yield within the meaning of the statute and notes, conditional sales contracts, chattel mortgages or other

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intangible personal property containing or including such charges shall be taxed as income producing property.

(4) A taxpayer claiming that any charges added to the original purchase price or net unpaid balance do not represent taxable income shall open and display any and all records as may be required by the department of revenue for the purpose of determining whether or not such charges constitute income within the meaning of the statute. In such cases it shall be the duty of the taxpayer to present adequate proof to the department to substantiate his claim that such charges are for other purposes than income upon the intangible personal property in question.

(5) For the purpose of computation of the tax the face or taxable values of instruments containing or including such charges may be considered to be the net unpaid balance due not including the amount of such charges as are treated as income to the holder or dealer.

(6) Interest upon intangibles either actually received or payable upon demand during the tax year is to be considered as taxable income; provided, however, that the tax shall be computed on the gross amount of such interest before any deductions referred to in the first 2 paragraphs of this rule have been made.

(7) Taxpayers who purchase or sell coupon bonds between coupon dates shall report as "interest earned" all moneys earned during the entire period the bond was held in lieu of only the amount of the coupon which matured during this period.

(8) A dividend paid in cash is income except to the extent it represents a return of capital in liquidation. A dividend paid on common stock in shares of a like kind and character and of the same corporation is not income. A dividend paid in the shares of stock of a different kind and character or of another corporation, or in notes, debentures or bonds of the same or of another corporation (except in liquidation), is income which shall be measured by the fair market value of such securities at the time of the payment of such dividend. A dividend paid in other property, e.g., sugar, oil, etc., (except in liquidation), is likewise income which shall be measured by the fair market value of such property at the time of payment of such dividend.

History: 1944 AC, p. 1347; 1944 ACS 5, p. 30; 1944 ACS 36, p. 46; 1954 AC, p. 944.

R 205.220 Income producing property.

Rule 20. Intangible personal property shall be considered as income producing if income is actually received by the taxpayer during the tax year or portion thereof that he holds the property or if income is payable on demand during that period. In the case of intangible personal property upon which interest or income is payable at stated intervals and if the taxpayer maintains an accurate accounting system on an accrual basis, income may be calculated on this basis for computation of the tax.

History: 1944 AC, p. 1348; 1944 ACS 5, p. 31; 1954 AC, p. 945.

R 205.221 Deduction of expense from income.

Rule 21. The intangibles tax statute makes no provision for the deduction of expense from income. Therefore, such deduction will not be allowed.

History: 1944 AC, p. 1348; 1944 ACS 5, p. 31; 1944 ACS 16, p. 18; 1954 AC, p. 945.

R 205.222 Variable tax values.

Rule 22. (1) Moneys on hand or in transit or on deposit in a bank or the paid-in value of shares of stock in building and loan or savings and loan associations shall be taxable as of their face value at the close of business on the retroactive date

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fixed each year by the department. No other method of determining taxable values may be used for such intangibles.

(2) As to other intangible personal property the value of which may change from time to time, the taxpayer may elect to use either the retroactive date method or a true average method. Once having made such an election the taxpayer shall continue to use the same method in succeeding years unless he obtains permission from the department to change his election. No such change of election shall become effective until the next tax year succeeding the filing of the application for change with the department. No special notice of election shall be necessary in connection with the first annual return filed under this provision and the method followed by the taxpayer in computing the tax on such return shall be deemed to constitute the taxpayer's election and subsequent returns shall follow the same method, except in cases in which a change of election is approved by the department. The taxpayer shall indicate on each return the method followed in determining taxable values.

(3) If the taxpayer elects to follow the retroactive date method, the tax shall be computed as if he had been the owner of all intangible personal property on hand at the close of business on that date for the entire tax year. In the case of stocks, bonds and other items of a similar character, it shall be presumed that the taxpayer received the entire income earned by such property during the entire tax year, irrespective of any acquisitions or dispositions of such property during that period.

(4) If the taxpayer elects to follow the true average method as to property, the value of which may fluctuate during the tax year, he shall determine the true average by adding together the balances of such items at the close of each month during the tax year and dividing the total by 12. If the taxpayer regularly uses an accounting period other than the calendar month, the department may permit the similar use of balances at the end of such periods. This method shall only be used in connection with such items as accounts or notes receivable or other items of a similar character. Taxpayers using this method shall report stocks, bonds, mortgages and other investments of a similar character on the basis of the period of time actually held and gross income as defined in R 29.219 actually received or payable upon demand during the period held.

(5) Taxpayers in business who are entitled to deduct payables from receivables shall compute the amount of the payable deduction on the same basis as was used to compute the amount of receivables.

(6) Because of the distinction made in the law between income producing and non-income producing property and the application of the minimum limit of the tax in the case of income producing property, in determining such average value each class of items must be separately treated. Within each class separate treatment must also be accorded to the income producing and non-income producing intangibles.

History: 1944 AC, p. 1349; 1944 ACS 5, p. 31; 1954 AC, p. 946.

R 205.223 Statutory deductions.

Rule 23. From the total computed tax the statute permits the deduction of $20.00 on the return of each taxpayer with the provision that in the case of jointly owned property, there shall be but one such deduction from the tax on such property. Therefore, husbands and wives and others owning property jointly shall take but one deduction from the tax on property owned in this manner. The statute further provides that this deduction shall not apply to the tax on moneys on hand or in transit or on deposit in a bank or on shares of stock in building and loan

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or savings and loan associations. In case the return covers a period of less than a full year the deduction shall be reduced proportionately. For the purpose of computation of the amount of the deduction on returns for a period of less than 1 year, the fractional period of the year by months shall be used and periods of less than 16 days shall be ignored and periods of 16 days or more but less than a full month shall be considered as 1 month.

History: 1944 AC, p. 1349; 1944 ACS 5, p. 32; 1954 AC, p. 946.

R 205.224 Accounts receivable.

Rule 24. (1) An account receivable is an obligation owing to a person on open account.

(2) Accounts receivable representing obligations of the United States government, state of Michigan or its political subdivisions are taxable to the person to whom the obligation is due on the same basis as any other account receivable.

(3) In the case of the maturity of an insurance policy, or the death of the insured, when the proceeds are not converted into periodic payments and taxable as an annuity under the act, but the funds are left on deposit with the company, such funds will be considered to be a taxable account receivable.

(4) Credits, due bills, deposits with credit unions or deposits with persons, firms or corporations other than banks shall be considered as accounts receivable unless they represent capital investments.

(5) Moneys on deposit in a bank in either a savings or commercial account shall not be considered as accounts receivable.

History: 1944 AC, p. 1349; 1944 ACS 5, p. 32; 1954 AC, p. 947.

R 205.225 Deduction of accounts and notes payable from receivables.

Rule 25. (1) An account payable is an obligation owing by a person on open account.

(2) The taxpayer may deduct from accounts and notes receivable, taxable under this act, accounts and notes payable by him, if such payables are incurred or given in connection with the business from which the receivables are derived, provided that accounts payable shall include only current open trade accounts for goods, material, merchandise and services for which the taxpayer has been billed. Notes payable shall not include bonds, debentures or similar items and neither shall it include any obligations of any type due more than 1 year from date of issuance. Therefore, this deduction is restricted to business returns and individual obligations not connected with business activities are not deductible. Deductible payables do not include payrolls, wage costs and related or similar items. Deductible payables do not include liabilities or obligations for the furnishing of goods, material, merchandise or services for which the taxpayer has received advance payment. Deductible payables do not include obligations for the erection or acquisition of plant or facilities for the conduct of business or the acquisition of capital assets. Deductible payables do not include dividends payable, accruals or contingent payables or other similar items. A contingent payable is an item or account which may become a definite obligation at some future date in case certain contingencies or circumstances arise. Taxes payable are not deductible unless they consist of taxes levied upon or collected from persons other than the taxpayer and received or retained by the taxpayer for remission to a governmental agency. As an example, social security taxes deducted from employees' pay checks and held in the possession of the employer would be considered a deductible payable on the return of the employer but that portion of social security taxes imposed upon the employer would not be deductible.

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(3) In case a taxpayer has both income producing and non-income producing receivables the deduction of allowable payables shall first be made from the non-income producing receivables. If the allowable payables exceed such receivables then the amount of such excess may be deducted from the income producing receivables. In case income producing receivables from which payables are to be deducted earn income at variable rates, such receivables and the income therefrom shall be considered in total and the allowable payables applicable to income producing receivables as hereinbefore provided shall be deducted therefrom and the total income applicable to the taxable balance of income producing receivables shall be the same percentage of the total income as the taxable income producing receivables are of the total income producing receivables.

(4) Mortgages payable are not allowable payables except in those cases in which the taxpayer holds a land contract covering the same real estate as that involved in the mortgage and in such cases the balance due on the mortgage may be deducted from the unpaid balance due on the contract. Income for the purpose of the computation of the tax shall be deemed to be the amount of such equity times the interest rate of the contract. In case the mortgage covers property in addition to that represented by the contract, the amount deductible from the contract shall be determined by a proportionate division of the mortgage according to value of the property so covered; provided, however, upon application the department may in its discretion approve any other plan of division which it considers will result in a fair and equitable apportionment.

(5) Insurance or collection agencies may consider as accounts payable that portion of premiums or collections received that is due to the company or principal.

(6) When a resident taxpayer is conducting business within and without the state of Michigan and his deductible payables cannot be accurately divided between the business within and without the state, he shall consider that the same percentage of such deductible payables may be used as the percentage which his taxable accounts receivable is of his total accounts receivable.

History: 1944 AC, p. 1349; 1944 ACS 5, p. 32; 1944 ACS 28, p. 20; 1944 ACS 36, p. 47; 1954 AC, p. 947.

R 205.226 United States government obligations.

Rule 26. (1) All bonds of the United States government are exempt from the tax. However, postal savings deposits are not exempt. Postal savings bonds are exempt by reason of act of congress.

(2) Accounts receivable due to a taxpayer from the federal government are taxable, since such obligations are not exempt by act of congress.

History: 1944 AC, p. 1350; 1944 ACS 5, p. 33; 1954 AC, p. 948.

R 205.227 Fiscal year.

Rule 27. The taxpayer may use the fiscal year basis in making returns, computing and paying the tax, if permission is first obtained from the department of revenue. However, a taxpayer having obtained permission to use a fiscal year, may not change back to use of the calendar year without obtaining permission from the department of revenue.

History: 1944 AC, p. 1350; 1944 ACS 5, p. 33; 1954 AC, p. 948.

R 205.228 Property owned part of tax year.

Rule 28. When an item of intangible personal property is owned by a taxpayer for only part of the tax year, the tax may be reduced proportionately based upon

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the length of time the item was actually owned; provided, however, this rule shall not apply in cases in which the taxpayer follows the retroactive date method in determining the taxable amounts of intangible personal property to be included on his return.

History: 1944 AC, p. 1350; 1944 ACS 5, p. 33; 1954 AC, p. 948.

R 205.229 Retroactive date.

Rule 29. On or about the close of each calendar year the department shall retroactively fix a date which shall be the last day of any month during such year. A taxpayer has the option of using this date for the determination of taxable intangible personal property subject to tax and for the determination of the face value thereof, or he may use the true average method and the period of time the property was actually owned. However, this date must be used for the determination of the taxable amount of moneys on hand or in transit or on deposit in a bank or of the paid-in value of shares of stock in building and loan or savings and loan associations. If the taxpayer uses this date he shall be deemed to have been the owner of intangible personal property on hand on that date for the entire tax year, irrespective of any acquisitions or dispositions of such property during the tax year, and to have received the income from such property, if any, for the entire year. (See R 205.222 and R 205.228.)

History: 1944 ACS 5, p. 33; 1954 AC, p. 948.

R 205.230 Trustees and beneficiaries of trusts.

Rule 30. (1) When a trustee accumulates the income from the property in the trust or is required to accumulate such income, if any, the trustee is deemed to be the owner to the extent income is accumulated and shall file any return and pay the tax required by the act. The department shall have access to the records of the trustee for the purpose of determining the tax or correctness of the tax or information returns and to verify the trustee's determination as to trusts which the trustee claims to be exempt from the tax.

(2) A beneficiary domiciled in this state who receives income from a trust shall be deemed to be the owner of the intangible personal property in the trust and taxable as such owner to the extent of his beneficial interest therein, irrespective of the state or other jurisdiction of the creation or administration of said trust.

History: 1944 ACS 5, p. 33; 1944 ACS 16, p. 18; 1954 AC, p. 948.

R 205.231 Formula of apportionment for taxpayers doing business within and without this state.

Rule 31. In applying the formula of apportionment, the following shall govern:

(a) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Property factor:

(i) Original cost includes the original cost of additions and improvements.

(ii) If original cost is not available, as in mergers and consolidations, then the book values at which the properties were transferred.

(iii) Inventories may be valued consistent with and in the same manner as for federal income tax purposes.

(iv) Annual rental rate includes the entire amount of money or other consideration paid either directly or indirectly. If rent is paid on other than a time basis then the other basis shall be used. The term shall also include any amount paid or accrued for interest, taxes, insurance or other items of expense to the taxpayer

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pursuant to the use of property of others. If the rental rate is nominal or zero the department shall apply a rate which will reasonably reflect the value of the property rented.

(c) Payroll factor: This is the same figure which will be used by the taxpayer for unemployment compensation purposes.

(d) Sales factor: This factor shall be the gross receipts or entire receipts from any activity whether in intrastate, interstate or in foreign commerce carried on for gain, benefit or advantage. Receipts mean the amount received or to be received in money, credits, property or other money's worth. The term shall not include wages, salaries or other compensation received for services rendered by an employee to his employer, proceeds of the sale of capital assets, repayments of debts, and amounts received, as agent or otherwise, solely on behalf of another, cash discounts allowed and taken on sales and the proceeds of sale of goods, wares or merchandise returned by customers when the sales price is refunded or where equivalent credit is granted.

History: 1954 ACS 48, p. 6, Eff. Nov. 14, 1966.

STATE BOARD OF TAX APPEALS

PRACTICE AND PROCEDURE

(By authority of Act No. 122 of the Public Acts of 1941, being §205.1 et seq. of the Michigan Compiled Laws)

R 205.301 Business hours.

Rule 1. The offices of the board at Lansing, Michigan, will be open from 9:00 to 12:00 and 1:00 to 5:00, daily except Saturday.

History: 1944 AC, p. 1350; 1954 AC, p. 949.

R 205.302 Representation.

Rule 2. Practice before this board shall be limited to attorneys at law in good standing, provided that any individual taxpayer or member of a taxpayer partnership may appear for himself or such partnership upon adequate identification to the board. A taxpayer corporation may be represented by a bona fide officer of the corporation. The board, upon its motion, may request a taxpayer's certified public accountant to assist in presentation of facts to the board.

History: 1944 AC, p. 1350; 1954 AC, p. 949.

R 205.303 Form and style of papers.

Rule 3. (1) All papers filed with the board shall be either printed or typewritten, and if typewritten, shall be on only 1 side of plain white paper. This paper shall be no more than 8½ inches wide and 13 inches long. Copies shall be legible but may be on any weight paper. Citations shall be in italics when printed, and underscored when typewritten.

(2) The proper caption shall be placed upon all papers filed. If the petitioner is an individual, the full given name and surname shall be set forth in the caption. If the petitioner is a married woman, her given name shall be used, not the name of her husband preceded by "Mrs." If the petitioner is a fiduciary, the name of the estate, trust, or other person for whom he acts shall be given first, followed by the name of the fiduciary.

(3) Except as otherwise provided in these rules, a signed original and 3 copies of all papers shall be filed. Whenever any paper is filed in more than 1 proceeding

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(as a motion to consolidate proceedings or in proceedings already consolidated), 1 additional copy shall be filed for each additional proceeding.

(4) The written signature, whether of the attorney or of the petitioner, shall be in individual and not in the firm name, except that where the petitioner is a corporation the written signature shall be by an active officer of the corporation. The name and mailing address of the petitioner or of the representative shall be typed or printed immediately following the written signature.

History: 1944 AC, p. 1350; 1954 AC, p. 949.

R 205.304 Initiation of proceeding.

Rule 4. (1) A proceeding shall be initiated by filing with the board a notice of appeal by petition as provided in R 205.303, and substantially in accordance with the form hereinafter set forth.

(2) At the time of filing said petition, the appellant shall deposit with the board as security for costs 2% of the amount of the tax in controversy, but not less than $25.00 nor more than $100.00.

(3) The petition shall be complete in itself so as to fully state the issues and shall contain the following:

STATE OF MICHIGAN
STATE BOARD OF TAX APPEALS

_____
Appellant

vs.

DEPARTMENT OF REVENUE,
Appellee

DOCKET NO.

PETITION.

TO THE STATE BOARD OF TAX APPEALS:

The above named appellant hereby petitions for a redetermination of the assessment (decision or order) set forth by the Department of Revenue in its notice of assessment (decision or order) date _____, 19____, and as a basis of his proceeding alleges as follows:

1. The appellant is (set forth whether individual, corporation, etc.) with principal office (or residence) at _____
(Street) (City) (State)

2. The taxes in controversy are (sales tax, use tax, intangible tax, etc.) for the period _____ and in the amount of _____ dollars.

3. A statement of the portion, if any, of the tax which is admitted by the appellant to be correct.

4. The determination of tax set forth in said notice is based upon the following errors: (Enumerate specifically the assignments of error in a concise manner and avoid pleading facts which properly belong in the succeeding paragraph). Copy of said notice is hereto attached and marked exhibit A.

5. The facts upon which the appellant relies as the basis of this proceeding are as follows:

(Here set forth allegations of facts relied upon, in orderly and logical sequence, with subparagraphs lettered, so as to inform the Board of the issues to be

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presented and to enable the Department of Revenue to admit or deny each specific allegation.)

6. The appellant hereby deposits with the board the sum of _____ dollars, costs in accordance with section 7 of Act No. 122 of the Public Acts of 1941 (attach certified check or money order payable to the State Board of Tax Appeals).

Wherefore, the appellant prays that this board may hear the proceedings and (state the relief desired).

Signed _____
Appellant

_____
Address

State of _____ } ss.
County _____ }

_____, being duly sworn, says that he is the petitioner (if a corporation, or fiduciary, state title of office or trust of person verifying and that he is duly authorized to verify the foregoing petition) above named; that he has read the foregoing petition, or had the same read to him, and is familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and that those he believes to be true.

Signed _____

Subscribed and sworn to before me this _____ day of _____, 19____

Signed _____
(Official title)

(SEAL)

History: 1944 AC, p. 1351; 1954 AC, p. 949.

R 205.305 Filing.

Rule 5. Any document to be filed with the board must be filed at the office of the board in Lansing, Michigan, provided that whenever hearings are held by the board outside of Lansing, Michigan, documents pertaining thereto may be filed at the hearing; provided, further, that any document to be filed with the board may be filed by mail.

History: 1944 AC, p. 1352; 1954 AC, p. 950.

R 205.306 Docket.

Rule 6. Upon receipt of the petition, the proceeding will be docketed and assigned a number, and the parties notified thereof. This number shall be placed by the parties on all papers thereafter filed in the proceeding.

History: 1944 AC, p. 1352; 1954 AC, p. 950.

R 205.307 Service of petition.

Rule 7. (1) The appellant in any case initiated before the board shall forthwith serve a copy of the petition upon the commissioner of revenue, or any agent within the department of revenue designated by the commissioner as the agent of the department upon whom service of notice of appeal may be made. The appellant shall then file proof of service with the board within 5 days after such service.

(2) Such service upon the commissioner or his designated agent may be made by the appellant or his attorney either personally or by registered mail with the return receipt demanded.

History: 1944 AC, p. 1352; 1954 AC, p. 950.

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R 205.308 Answer.

Rule 8. (1) After service of a copy of the petition, the department shall have 15 days within which to file an answer to the petition. The answer shall be drawn fully and completely so as to advise the appellant and the board of the nature of the defense. It shall contain a specific admission or denial of each material allegation of fact contained in the petition, and a statement of any facts upon which the department relies for defense, and shall contain any affirmative allegations to be relied upon by the department.

(2) Each paragraph contained in the answer shall be numbered to correspond with the paragraphs of the petition. An original and 3 copies of the answer shall be filed, of which the original shall be signed by the commissioner of revenue or his counsel, and the copies conformed by him.

(3) The department shall forthwith serve a copy of the answer upon the attorney of record, or if there is no attorney of record then upon the appellant, and shall file proof of service with the board within 5 days after such service.

History: 1944 AC, p. 1352; 1954 AC, p. 951.

R 205.309 Hearings.

Rule 9. (1) Upon the filing of the answer, the board shall have jurisdiction to review such assessment, decision, or order, and both the appellant and the department shall have the right to swear witnesses and to be represented by counsel.

(2) Said hearing shall be had within 60 days after filing of the answer.

History: 1944 AC, p. 1352; 1954 AC, p. 951.

R 205.310 Notice of hearings.

Rule 10. When a proceeding has been placed upon the calendar for hearing, the clerk will notify the parties of the time and place of hearing not less than 10 days prior thereto. Parties shall arrange to have their witnesses at the time and place designated in the notice of hearing, and exhibits must be ready for presentation at such time.

History: 1944 AC, p. 1352; 1954 AC, p. 951.

R 205.311 Public hearings.

Rule 11. All hearings before this board shall be public; provided, however, that the board, upon motion of the appellant, may exclude from the hearing all persons not directly interested therein. The board may make such an order upon a proper showing by the appellant that information divulged would be detrimental to the appellant's business.

History: 1944 AC, p. 1352; 1954 AC, p. 951.

R 205.312 Failure to appear.

Rule 12. The unexcused absence of a party or his attorney at the place and hour set for hearing of any proceeding before the board will not be an occasion for delay. The hearing will proceed and the case will be regarded as submitted on the part of the absent party or parties.

History: 1944 AC, p. 1352; 1954 AC, p. 951.

R 205.313 Evidence.

Rule 13. Legal rules of evidence prevailing in the circuit courts of the state shall be enforced. The following do not constitute evidence:

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(a) Statements of counsel;
(b) Unidentified and unauthorized documents and letters;
(c) Affidavits which have not been submitted to the opposing party and approved by such party to be submitted as evidence;
(d) Briefs and arguments.

History: 1944 AC, p. 1352; 1954 AC, p. 951.

R 205.314 Amendments.

Rule 14. Either party may amend his petition or answer at any time prior to the hearing before this board, by consent of the adverse party or by leave of the board. An original and 4 copies of such amendment shall be filed with the clerk, and the clerk shall serve upon the adverse party or his attorney of record a copy of such amendment. All motions to amend must be accompanied by the proposed amendments.

History: 1944 AC, p. 1352; 1954 AC, p. 951.

R 205.315 Substitution of attorney.

Rule 15. Substitution of an attorney shall be made only upon the written stipulation of the withdrawing attorney and the appearance of the substituted attorney being promptly filed with the board. The board shall not recognize such withdrawals and substitution until such stipulation is duly filed.

History: 1944 AC, p. 1353; 1954 AC, p. 952.

R 205.316 Continuance.

Rule 16. No continuance shall be granted except for good cause shown by the appellant or his attorney, and then only upon notice in writing to the board within 6 days after notification by the clerk of the board that a hearing has been set.

History: 1944 AC, p. 1353; 1954 AC, p. 952.

R 205.317 Depositions.

Rule 17. The testimony of any witness may be taken by deposition de bene esse in accordance with sections 14160 to 14167, inclusive, of the Michigan Compiled Laws. All testimony taken in a foreign language shall be taken in triplicate and shall be correctly translated into the English language at the expense of the party taking the same. One copy of the testimony together with said translation shall be filed with the board within 10 days after the return of such deposition and a copy of the testimony together with a copy of the translation served upon the opposite party at the time of filing said testimony and translation with the board. An affidavit by the translator shall be attached to such translation that the same is a correct translation of the original into the English language and of the whole thereof. Such translation shall be considered as correct unless objections are made to same by the opposite party within 10 days after the service of said testimony and translation upon him.

History: 1944 AC, p. 1353; 1954 AC, p. 952.

R 205.318 Stipulation of facts.

Rule 18. The parties, by stipulation in writing filed with the board or presented at the hearing, may agree upon any facts involved in a proceeding. Stipulations filed with the board need not be formally offered to be considered in evidence.

History: 1944 AC, p. 1353; 1954 AC, p. 952.

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R 205.319 Proposed findings of fact.

Rule 19. The board may require either party to a proceeding to submit proposed findings of fact at the close of the hearing or within such time as it may direct.

History: 1944 AC, p. 1353; 1954 AC, p. 952.

R 205.320 Briefs.

Rule 20. The board, in its discretion, may require that briefs be submitted either before or after the hearing and may designate the manner of filing and serving the same and the time therefor.

History: 1944 AC, p. 1353; 1954 AC, p. 952.

R 205.321 Computation of time.

Rule 21. The day on which any rule shall be entered, or order, notice, pleading, or paper served shall be excluded in the computation of the time for complying with the exigency of such rule, order or notice, pleading or paper, and the day on which a compliance therewith is required shall be included, except where it shall fall on Sunday or a legal holiday, in which case the party shall have the next business day to comply therewith.

History: 1944 AC, p. 1353; 1954 AC, p. 952.

CIGARETTE TAX

(By authority of Act No. 265 of the Public Acts of 1947, being §205.51 et seq. of the Michigan Compiled Laws)

R 205.401 Identification of manufacturer's shipping case; seal; stamp; seizure and confiscation.

Rule 1. (1) The first purchaser of cigarettes in this state is required to identify each original manufacturer's shipping case of cigarettes so purchased with his name and address and an impression of a seal prescribed by the department of revenue. This seal has been designed by the department and it includes in it the license number assigned to said first purchaser by the department. The name and address of the original purchaser and the seal referred to in this regulation will be incorporated in a rubber stamp which must be obtained by each person licensed to make purchases of cigarettes from unlicensed sources. The stamp must be obtained from a stamp manufacturer authorized by the department of revenue to make such stamps. The said rubber stamp may be manufactured only on the written authority of the Michigan department of revenue, and each stamp so manufactured shall comply with the specifications of the department, and only such stamp manufacturers approved by the department shall be authorized to manufacture such stamps.

(2) Any manufacturer of stamps desiring to manufacture or reproduce such stamps may receive authorization to manufacture or reproduce such stamps upon written application and approval by the department of revenue. A list of authorized stamp manufacturers will be supplied to cigarette licensees by the department upon request.

(3) Each person licensed by the department to acquire cigarettes from unlicensed sources shall obtain any required stamps from an authorized manufacturer. The stamp manufacturer must obtain verification from the department that the purchaser is a properly qualified licensee. The department will advise the manufacturer of the license number to be incorporated in the seal. The name and

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address of the licensee and the prescribed seal must appear on each end of the shipping case so that when a manufacturer's shipping case is split in half, the name and address and seal will appear in their entirety on either half of the case.

(4) After the effective date of this rule, cigarettes in cases not stamped as provided for in this rule shall be subject to seizure and confiscation in accordance with the provisions of Act No. 265, P.A. 1947, as amended.

History: 1944 ACS 32, p. 6; 1954 AC, p. 953.

BUSINESS ACTIVITIES TAX

(By authority of section 19 of Act No. 150 of the Public Acts of 1953, as amended, being §205.569 of the Michigan Compiled Laws)

R 205.551 Filing of returns.

Rule 1. (1) Every person in a business activity as defined in the act and subject to the tax imposed thereby, who has annual gross receipts as defined in this act of $25,000.00 or over, must file a return. No return shall be required under this act from any person who does not have gross receipts of more than $25,000.00 during his fiscal year, provided that such a person is engaged in a business activity for a full year. Therefore, the tax applies to retailers, wholesalers, manufacturers, service industries, professional men, agricultural producers and anyone else engaged in a business activity as defined in the act.

(2) The taxes levied hereunder shall be due and payable in quarterly installments except as hereinafter provided. The quarterly return shall be filed on or before the last day of the month immediately following each quarterly period of such taxpayer, provided that the tax due for the last quarter of the taxpayer's year shall be included in his annual return due 4 calendar months following the close of such tax year. Any taxpayer shall, with the approval of the department, be authorized to file annual instead of quarterly returns for any tax year if, at the time he files the annual return for the full tax year, he shall pay as an advancement against the succeeding year's tax, an additional sum equal to the amount of his total annual tax as shown by such annual return. The taxpayer shall, on or before the expiration of the time allowed for payment of the tax, make out a return on the form furnished by the department, verify the same and transmit it, together with his remittance of the amount of tax to the department of revenue.

(3) The return, which is required to be filed 4 calendar months following the close of the taxpayer's fiscal year, shall be deemed to be annual return and all other returns shall be deemed quarterly returns. The annual return shall cover the preceding fiscal year and shall state the total tax upon such fiscal year's operations, which shall be due and payable 4 calendar months after the end of such fiscal year but a credit shall be allowed against the tax due for such fiscal year equal to amounts paid during and for such period covered by the annual return. If any taxpayer shall be unable to compute his tax completely and accurately for any quarterly return, he shall compute it as accurately as possible under sound accounting principles, file his quarterly return accordingly and make any necessary adjustment in his annual report.

(4) The returns required by this section shall be filed either on a cash receipts or accrual basis according to the accounting procedure followed by the taxpayer. After once having elected to file his returns on either the cash receipts or accrual basis, the taxpayer shall not change the basis for the filing of said returns without first obtaining permission of the department.

(5) Any person engaged in the business of agricultural producing and whose sole business activity is that of commercial production for sale of crops, livestock

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or poultry, may, with the approval of the department, be authorized to omit the filing of quarterly returns and file an annual return. The foregoing provision applies only to producers of crops, livestock or poultry and does not apply to those engaged in processing or marketing such products. A seasonal business, which shall mean any business which regularly earns 90% of its gross receipts within 8 consecutive months of any 12-month period and does not normally engage in a year round business, may, with the approval of the department, be authorized to omit the filing of quarterly returns and file an annual return.

(6) The department, upon application of the taxpayer and for good cause shown, may extend the time for making any return required by this act. Interest at the rate of 6% per annum shall accrue on any unpaid tax during the period of any such extension.

History: 1944 ACS 36, p. 48; 1954 AC, p. 953; 1954 ACS 1, p. 5, Eff. Mar. 18, 1955; 1954 ACS 28, p. 5, Eff. Nov. 14, 1961.

R 205.552 Tax year.

Rule 2. The taxpayer shall file his annual return covering the same fiscal period as is covered by his federal income tax return. If his fiscal year shall be different from the calendar year, he should obtain permission from the department to use his fiscal year for the filing of both annual and quarterly returns. Such permission shall be granted by the department upon request of the taxpayer or his agent.

History: 1944 ACS 36, p. 48; 1954 AC, p. 954; 1954 ACS 1, p. 5, Eff. Mar. 18, 1955.

R 205.553 Records of taxpayer.

Rule 3. The taxpayer shall maintain such books and records as may be necessary in order to determine the correct amount of tax for which such taxpayer is liable. Such books and records for each year's operations shall be kept for a period of not less than 3 years from the date set for the filing of the annual return for that year, or the date such return was actually filed, whichever is later, and they shall be open for examination by agents of the department at any time during normal business hours.

History: 1944 ACS 36, p. 48; 1954 AC, p. 954; 1954 ACS 1, p. 6, Eff. Mar. 18, 1955.

R 205.554 Casual or isolated transaction.

Rule 4. (1) The term "casual or isolated transaction" as used in the statute shall include only a transaction not made in the ordinary course of repeated and successive transactions of like character. Example: A person sells his own home.

(2) However, any person who in any manner, or at any time, advertises, solicits or offers property or services for sale for the purpose of repeated transactions is deemed to be regularly engaged in a business activity and his receipts are not considered as casual or isolated even though they may be few or infrequent.

History: 1944 ACS 36, p. 48; 1954 AC, p. 954.

R 205.555 Capital assets.

Rule 5. The term "capital assets" includes all real or tangible property which has a normal useful life which exceeds 1 year and which is not held by the taxpayer for sale to customers in the normal course of business. "Capital assets" do not include items of merchandise temporarily withdrawn from inventory and used by the taxpayer for demonstration purposes.

History: 1944 ACS 36, p. 49; 1954 AC, p. 954.

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R 205.556 Agent.

Rule 6. (1) In section 1(j)(5) of the statute the word "agent" shall mean: An agent as at the common law or any of the special agents generally known as factors, brokers, attorneys and similar special and limited agents.

(2) As used in this section of this act, the term "agent" shall mean the representative of a principal under an agency, defined as that relationship which results from the manifestation of consent by one person to another, that the other shall act on his behalf and subject to his control and consent by the other so to act.

(3) A person cannot exclude from his gross receipts amounts received by him which he has authority to expend in payment for or in consideration of sales or services made or rendered, or to be made or rendered, by himself or by others acting under his direction and control.

(4) A person may exclude from his reported gross receipts amounts received in an agency or other representative capacity only when it meets all the following requirements:

(a) That the contract or agreement between such persons clearly establishes the relationship of principal and agent.

(b) That the books and records of the agent show the name of the principal on whose behalf the money or property is received.

(c) That on the sale of tangible personal property the credit risk is assumed by the principal, and on purchase of property the risk of loss or damage is assumed by the principal.

(d) That the books and records of the agent show the amount of gross receipts and the amount of commission due thereon.

Example: Real estate brokers or attorneys collecting money for and in behalf of their principal can exclude from their gross receipts the amount collected for their principal less the commission retained by the agent.

History: 1944 ACS 36, p. 49; 1954 AC, p. 954; 1954 ACS 1, p. 6, Eff. Mar. 18, 1955; 1954 ACS 5, p. 45, Eff. Feb. 15, 1956.

R 205.557 Employee.

Rule 7. Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee. An individual is considered an employee of the taxpayer if such taxpayer exercises substantial control or direction over the employee's action, not only as to the result to be accomplished but also as to the details and means by which the result is accomplished. In addition to the above, the following factors and other pertinent information may also be considered:

(a) Selection and engagement of the employee.

(b) Payment of wages, salaries or other compensation.

(c) Power of dismissal.

(d) Payment of social security and unemployment compensation taxes and withholding of federal income taxes.

History: 1944 ACS 36, p. 49; 1954 AC, p. 955.

R 205.558 Wages, salaries, or other compensation.

Rule 8. The term "wages, salaries or other compensation" means all remuneration for employment. The name by which the remuneration for employment is designated is immaterial. Thus, salaries, fees, bonuses and commissions are wages within the meaning of the act if paid as compensation for employment. The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piece work,

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or a percentage of profits; and it may be paid hourly, daily, weekly, monthly or annually.

History: 1944 ACS 38, p. 49; 1954 AC, p. 955.

R 205.559 Public utilities.

Rule 9. (1) The term "public utility" or "public utilities" shall include those persons as defined in the statute.

(2) A taxpayer operating a business where a portion of his business has receipts regulated by a state or federal regulatory agency or commission and the balance of his business is not controlled, shall file a return which shall show the receipts from each type of business. The statutory tax rate on the adjusted receipts of the controlled business shall apply on each dollar of such adjusted receipts, and the statutory rate applicable to all other adjusted receipts shall apply to the balance.

History: 1944 ACS 38, p. 49; 1954 AC, p. 955; 1954 ACS 1, p. 6, Eff. Mar. 18, 1955; 1954 ACS 5, p. 45, Eff. Feb. 15, 1956; 1954 ACS 48, p. 7, Eff. Nov. 14, 1966.

R 205.560 Gross receipts.

Rule 10. (1) Gross receipts shall mean the entire receipts from any activity whether in intrastate, interstate or in foreign commerce carrried on for gain, benefit or advantage not specifically exempt hereunder. Receipts mean the amount received or to be received in money, credits, property or other money's worth. The term "gross receipts" shall not include wages, salaries or any compensation received for services rendered by an employee to his employer, proceeds of the sale of capital assets, repayments of debts, and amounts received, as agent or otherwise, solely on behalf of another, cash discounts allowed and taken on sales and the proceeds of sale of goods, wares or merchandise returned by customers when the sales price is refunded or where equivalent credit is granted.

(2) The statute authorizes the taxpayer to file his report on either the cash receipts or accrual basis according to the standard accounting practice used by the taxpayer; therefore, gross receipts reported and deductions claimed therefrom shall conform to the accounting system of the taxpayer.

(3) Examples of gross receipts which must be reported:

(a) Receipts from the sales of all property or services or any combination of sales and services.

(b) Commissions earned (except as an employee).

(c) Rents and royalties received.

(d) Income from professional service.

(e) Receipts from sales of scrap and other similar miscellaneous items except receipts from sales of scrapped capital assets.

(4) Examples of receipts which may be excluded from the gross receipts of the business:

(a) Wages, salaries or other compensation received as an employee.

(b) Proceeds of sale of capital assets which have a normal useful life exceeding 1 year and which are not held for sale to customers in the ordinary course of business activity.

(c) If your accounting and reporting is on an accrual basis you do not have to report payments on accounts or notes receivable. If you are reporting on a cash basis this does not apply.

(d) Amounts received as an agent or otherwise on behalf of another. For example: A real estate agent can exclude the net amount paid to the seller, but not the earned commission.

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(e) Income not including royalty income received from intangible personal property subject to tax or expressly exempt under the provisions of Act No. 301 of the Public Acts of 1939, as amended, being §§205.131 to 205.147 of the Michigan Compiled Laws or that which is not taxed thereunder solely by reason of the allocation or apportionment formula contained in that act.

(f) Cash discounts allowed and taken.

(g) Proceeds of the sale of goods, wares, or merchandise returned by customers when the sales price is refunded or equivalent credit granted.

History: 1944 ACS 36, p. 49; 1954 AC, p. 955; 1954 ACS 1, p. 6, Eff. Mar. 18, 1955; 1954 ACS 28, p. 6, Eff. Nov. 14, 1961.

R 205.561 Income or adjusted receipts.

Rule 11. (1) The term "income" or the term "adjusted receipts," used interchangeably in the act, shall be the gross receipts, less such of the following costs as may have been incurred in the conduct of the business from which the receipts were derived:

(2) Taxes:

(a) All taxes and other fees or exactions by governmental authority other than taxes on or measured by net income:

(i) This would include all local property taxes except special assessments for improvements which represent capital assets.

(ii) This would include state and federal taxes collected from the taxpayer's customers and paid directly to federal or state governments provided such taxes are included in gross receipts.

(iii) This would include license fees paid to federal, state, and local governments for business operation.

(b) This does not include federal income taxes, state taxes measured by net income, taxes withheld or collected from employees, or taxes not related to the business from which the gross receipts were derived.

(3) Business expenses:

(a) All amounts paid to any business the income from which is subject to the provisions of this act or would be so subject if it proceeded or accrued from business conducted in the state of Michigan, or to any person or government expressly exempted from the provisions hereof, for the acquisition or use of property, services, privileges or facilities for the purpose of carrying on the business, except capital assets.

(b) This would permit deduction from gross receipts of the ordinary and necessary expenses of conducting your business or profession such as:

(i) Cost of merchandise sold, not including labor or overhead costs.

(ii) Freight and postage.

(iii) Electricity and other utilities.

(iv) Advertising.

(v) Insurance.

(vi) Interest paid on loans directly connected with the business from which the gross receipts are derived.

(vii) Miscellaneous expenses and supplies.

(viii) Losses from bad debts.

(ix) Repairs (other than those which are capitalized).

(x) Rent paid.

(xi) Dues and payments to business associations and contributions to charitable organizations.

(xii) Travel expenses.

(xiii) Legal and professional services.

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(xiv) Payments to a trust when such trust is exempt from federal income taxes under the provisions of the internal revenue code.

(4) Allowance for depreciation or amortization of real property:

(a) Real property subject to depreciation or amortization shall include all buildings, appurtenances, improvements and fixtures which are permanently affixed to and become a structural part of real estate (including appurtenances, improvements and fixtures affixed to real property rented or leased by the taxpayer) which normally are used in the taxpayer's business, which are carried on the taxpayer's accounting records as assets, and which are subject to an allowance for depreciation or amortization for federal income tax purposes for the same taxable period.

(b) Methods and rates of depreciation and/or amortization allowable for federal income tax purposes, generally, shall be considered reasonable under this act provided such methods and rates are not inconsistent with the provisions of this act. To illustrate a practice which would be inconsistent with the act, a taxpayer cannot be allowed a deduction for depreciation of the capitalization of payroll expenditures since payrolls are never allowable as deductions.

(c) At the time of filing each annual return under this act, it shall be assumed that the allowance for depreciation or amortization was and shall continue to be computed in accordance with and follow the rulings of the internal revenue service with respect to the federal income tax for the corresponding tax period.

(d) When the internal revenue service rulings are inconsistent with the provisions of this act, the department shall determine a different rate or method of computation of depreciation or amortization in respect to real property, provided that such rate or method of computation shall not be unreasonable in light of the normal practice in the industry of the taxpayer, particular economic conditions of the taxpayer and the overall effect upon application and administration of this act.

(e) In the event there are reasons for a variance from amounts shown on the federal income tax return, approval of the department must be obtained. A request for such approval may be made by application attached to the annual return and should contain full details of the variation requested and the reason for such request.

(f) In any event the depreciation or amortization permitted under this act shall at no time be granted if, at the same time, there is no such depreciation or amortization available to the taxpayer for his federal income tax return and on a basis consistent with the filing of his federal income tax return for prior years.

(g) In case of an examination or audit of the federal income tax return of any taxpayer which results in a disallowance for depreciation or amortization of real property which has also been claimed as a deduction from gross receipts under this act, the taxpayer shall, within 60 days of notification of such disallowance, file an amended return showing the corrected depreciation or amortization deduction. This does not permit deduction of:

(i) Wages, salaries, bonuses, commissions or other compensation paid to employees and officers other than pension trusts included in item 14 above.

(ii) Partnership distributions to partners or dividends paid on capital stock.

(iii) Depreciation, amortization and depletion other than that allowed on real property as previously set forth.

(iv) Purchase of capital assets the normal useful life of which exceeds 1 year.

History: 1944 ACS 36, p. 50; 1954 AC, p. 956; 1954 ACS 1, p. 7, Eff. Mar. 18, 1955; 1954 ACS 5, p. 46, Eff. Feb. 15, 1956.

R 205.562 Minimum deduction.

Rule 12. (1) If the total deductions taken under R 205.561 are less than 50% of the gross receipts of the business as defined in the act and in R 205.560, the

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adjusted receipts of the business shall be taken to be 50% of gross receipts. In other words, the taxpayer may deduct from his gross receipts the total of the allowable deductions or 50% of his gross receipts, whichever is greater.

(2) If the payroll of a person subject to the tax exceeds 50% of the gross receipts, then an additional deduction of 10% of the gross receipts or ½ of such excess of payroll over 50%, whichever is smaller, may be taken in addition to the basic 50% deduction. The term "payroll" means the gross wages, salaries or other compensation paid directly to employees prior to any deductions. The term "payroll" as used in this provision includes only the wages or compensation paid to others, and shall not include salary or compensation paid to a proprietor or partners.

(3) For example, a contractor with gross receipts of $100,000.00, payroll of $60,000.00 and allowable deductions of $15,000.00 should take the 50% deduction in lieu of itemizing his actual business expenses. He then could take an additional deduction of ½ of the excess payroll over 50% of the gross receipts or, as in this example, a deduction of $5,000.00, making total deductions of $55,000.00. As this taxpayer used the 50% of gross receipts to arrive at allowable deductions, he cannot add the $15,000.00 actual expenses as this amount is included in the 50% deduction.

(4) A contractor with gross receipts of $100,000.00, payroll of $75,000.00 and allowable deductions of $15,000.00 should take the 50% deduction, plus 10% of $100,000.00 or $10,000.00, making a total of $60,000.00 deductions. In this example ½ of the $25,000.00 excess of the payroll over the basic 50% would be $12,500.00, however, 10% of the gross receipts ($10,000.00) is the smaller amount. As this taxpayer used the 50% of gross receipts to arrive at the allowable deductions, he cannot add the $15,000.00 actual business expenses as this amount is included in the 50%.

History: 1944 ACS 36, p. 51; 1954 AC, p. 957; 1954 ACS 5, p. 47, Eff. Feb. 15, 1956.
Editor's note: This rule was republished in 1981 AACS, p. 2163, to correct a discrepancy.

R 205.563 Statutory exemption.

Rule 13. (1) After each taxpayer has arrived at the correct amount of adjusted receipts, he is entitled to a statutory exemption. In filing his quarterly returns the taxpayer may take ¼ of such exemption each quarter. If such exemption equals or exceeds the amount of adjusted receipts, the taxpayer has no tax liability. Only 1 such exemption shall be granted to each person as defined in the act irrespective of the number of businesses conducted by such person or the number of members of the business organization.

(2) In the case of a taxpayer who engages in business in Michigan for less than a yearly period, the statutory exemptions shall be prorated for the period of his business activity.

Examples:

A taxpayer engaged in business for 1 month would be entitled to an exemption of 1/12 of the annual exemption.

A taxpayer engaged in business for 7 days would be entitled to 7/365 of the annual exemption.

History: 1944 ACS 36, p. 51; 1954 AC, p. 957; 1954 ACS 48, p. 7, Eff. Nov. 14, 1966.

R 205.564 Rescinded.

History: 1944 ACS 36, p. 51; 1954 AC, p. 957; 1954 ACS 1, p. 8, Eff. Mar. 18, 1955; 1954 ACS 5, p. 47, Eff. Feb. 15, 1956; 1954 ACS 28, p. 6, Eff. Nov. 14, 1961; rescinded 1954 ACS 48, p. 7, Eff. Nov. 14, 1966.

R 205.565 Refunds.

Rule 15. Upon examination of an annual return on which it appears that the taxpayer has overpaid his liability, the excess so paid may be credited against a

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subsequent tax or shall be refunded if requested by the taxpayer within 3 years from the due date of the annual return or the date it was filed, whichever is later; provided, however, that the department reserves the right to make an examination of the taxpayer's books and records prior to making such refund or issuing such credit. No special form for filing a request for refund or credit is required but the request shall be filed in writing.

History: 1944 ACS 36, p. 52; 1954 AC, p. 958; 1954 ACS 28, p. 8, Eff. Nov. 14, 1961.

R 205.566 Formula of apportionment for taxpayers doing business within and without this state.

Rule 16. In applying the formula of apportionment, the following shall govern:

(a) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Property factor:

(i) Original cost includes the original cost of additions and improvements.

(ii) If original cost is not available, as in mergers and consolidations, then the book values at which the properties were transferred.

(iii) Inventories may be valued consistent with and in the same manner as for federal income tax purposes.

(iv) Annual rental rate includes the entire amount of money or other consideration paid either directly or indirectly. If rent is paid on other than a time basis then the other basis shall be used. The term shall also include any amount paid or accrued for interest, taxes, insurance or other items of expense to the taxpayer pursuant to the use of property of others. If the rental rate is nominal or zero the department shall apply a rate which will reasonably reflect the value of the property rented.

(c) Payroll factor: This is the same figure which will be used by the taxpayer for unemployment compensation purposes.

(d) Sales factor: This factor shall be the gross receipts as determined under R 205.560.

History: 1954 ACS 48, p. 7, Eff. Nov. 14, 1966.

CITY INCOME TAX

(By authority of Act No. 284 of the Public Acts of 1964, being §141.501 et seq. of the Michigan Compiled Laws)

R 205.901 Nature of appeal.

Rule 1. Appeals to the commissioner of revenue are limited to:

(a) A final determination of the board of review on a final assessment, denial in whole or part of a claim for refund, or a special ruling.

(b) Adoption of a rule or regulation by the administrator.

History: 1954 ACS 42, p. 12, Eff. May 15, 1965.

R 205.902 Time and place of appeal.

Rule 2. The appeal, in form and content as provided in R 205.905, shall be filed with the commissioner of revenue at his offices in Lansing, Michigan, not later than 30 days after notice of the final determination of the board of review or the date of the adoption of the rule or regulation.

History: 1954 ACS 42, p. 12, Eff. May 15, 1965.

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R 205.903 Representation.

Rule 3. A taxpayer or any other person entitled to appeal may appear for himself or by a duly authorized representative. The commissioner may require adequate identification and authority.

History: 1954 ACS 42, p. 12, Eff. May 15, 1965.

R 205.904 Form and style of papers.

Rule 4. (1) All papers filed with the commissioner of revenue shall be either printed or typewritten, and if typewritten, shall be on only one side of plain white paper. This paper shall be no more than 8½ inches wide and 11 inches long. Copies shall be legible but may be on any weight paper. Citations shall be in italics when printed, and underscored when typewritten.

(2) The proper caption shall be placed upon all papers filed. If the petitioner is an individual, the full given name and surname shall be set forth in the caption. If the petitioner is a married woman, her given name shall be used, not the name of her husband preceded by "Mrs." If the petitioner is a husband and wife who have filed a joint return, the full given name and surname of each shall be set forth. If the petitioner is a fiduciary, the names of the estate, trust, or other person for whom he acts, shall be given first, followed by the name of the fiduciary.

(3) Except as otherwise provided in these rules, a signed original and 1 copy of all papers shall be filed. Whenever any paper is filed in more than 1 proceeding (as a motion to consolidate proceedings or in proceedings already consolidated), 1 additional copy shall be filed for each additional proceeding.

(4) The written signature, whether of the representative or of the petitioner, shall be in individual and not in the firm name, except that where the petitioner is a corporation the written signature shall be by an active officer of the corporation. The name and mailing address of the petitioner or of the representative shall be typed or printed immediately following the written signature.

History: 1954 ACS 42, p. 13, Eff. May 15, 1965.

R 205.905 Initiation of a proceeding.

Rule 5. (1) A proceeding shall be initiated by filing with the commissioner of revenue a notice of appeal by petition as provided in R 205.904, and substantially in accordance with the form hereinafter set forth.

(2) The petition shall be complete in itself so as to fully state the issues and shall contain the following:

STATE OF MICHIGAN
DEPARTMENT OF REVENUE

_____ Appellant vs. City of _____ Appellee	DOCKET NO.

PETITION

TO THE STATE COMMISSIONER OF REVENUE:

The above named appellant hereby petitions for a redetermination of the (final assessment, denial in whole or part of a claim for refund, special ruling, adoption

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of a rule or regulation by the administrator) set forth by the City of _____ in its determination, decision or order dated _____ 19 ___ and as a basis of his proceeding alleges as follows:

1. The appellant is (set forth whether individual, corporation, etc.) with principal office (or residence) at _____ (Street) (City) (State).

2. The matter in controversy is _____

_____

_____

_____

_____

3. The determination, decision or order is based upon the following errors: (Enumerate specifically the assignments of error in a concise manner and avoid pleading facts which properly belong in the succeeding paragraph). Copy of said determination, decision or order is hereto attached and marked exhibit A.

4. The facts upon which the appellant relies as the basis of this proceeding are as follows:

(Here set forth allegations of facts relied upon, the prior legal steps taken by the petitioner, in orderly and logical sequence, with subparagraphs lettered, so as to inform the commissioner of revenue of the issues to be presented and to enable the city to admit or deny each specific allegation.)

Wherefore, the appellant prays that the commissioner of revenue may hear the proceedings and (state the relief desired).

Signed _____
Appellant

_____
Address

State of _____ } ss.
County _____ }

_____, being duly sworn, says that he is the petitioner (if a corporation, or fiduciary, state title of office or trust of person verifying and that he is duly authorized to verify the foregoing petition) above named; that he has read the foregoing petition, or had the same read to him, and is familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and that those he believes to be true.

Signed _____

Subscribed and sworn to before me this _____ day of _____, 19____

Signed _____
(Official title)

(Seal)

History: 1954 ACS 42, p. 13, Eff. May 15, 1965.

R 205.906 Filing.

Rule 6. Any document to be filed with the commissioner of revenue must be filed at the office of the commissioner of revenue in Lansing, Michigan; provided that, whenever hearings are held outside of Lansing, Michigan, documents pertaining thereto may be filed at the hearings; provided, further, that any document to be filed with the commissioner of revenue may be filed by mail. The postmark will be considered the date of filing.

History: 1954 ACS 42, p. 14, Eff. May 15, 1965.

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R 205.907 Docket.

Rule 7. Upon receipt of the petition, the proceedings will be docketed and assigned a number, and the parties notified thereof. This number shall be placed by the parties on all papers thereafter filed in the proceeding.

History: 1954 ACS 42, p. 14, Eff. May 15, 1965.

R 205.908 Service of petition.

Rule 8. (1) The appellant in any case initiated before the commissioner of revenue shall forthwith serve a copy of the petition upon the administrator of the city, or any agent within the city, designated by the administrator. The appellant shall then file proof of service with the commissioner of revenue within 5 days after such service. If proof of service is filed with the commissioner of revenue by mail the postmark will be considered the date of filing.

(2) Such service upon the administrator or his designated agent may be made by the appellant or his representative either personally or by registered or certified mail with the return receipt demanded.

History: 1954 ACS 42, p. 14, Eff. May 15, 1965.

R 205.909 Answer.

Rule 9. (1) After service of a copy of the petition, the city shall have 20 days within which to file an answer to the petition. The answer shall be drawn fully and completely so as to advise the appellant and the commissioner of revenue of the nature of the defense. It shall contain a specific admission or denial of each material allegation of fact contained in the petition, and a statement of any facts upon which the city relies for defense, and shall contain any affirmative allegations to be relied upon by the city.

(2) Each paragraph contained in the answer shall be numbered to correspond with the paragraphs of the petition. An original and 1 copy of the answer shall be filed, of which the original shall be signed by the administrator of the city or his counsel and the copies conformed by him.

(3) The city shall forthwith serve a copy of the answer upon the representative of record, or if there is no representative of record then upon the appellant, and shall file proof of service with the commissioner of revenue within 5 days after such service.

History: 1954 ACS 42, p. 14, Eff. May 15, 1965.

R 205.910 Stipulations.

Rule 10. Matters involving interpretation of law and statements of fact in which parties are in agreement shall be stipulated 5 days prior to the date set for the hearing.

History: 1954 ACS 42, p. 15, Eff. May 15, 1965.

R 205.911 Notice of hearings.

Rule 11. (1) Upon the filing of the answer, the commissioner of revenue shall have jurisdiction to review such determination, decision or order, and both the appellant and the city shall have the right to swear witnesses and to be represented by counsel.

(2) Said hearing shall be had within 60 days after filing of the answer.

(3) When a proceeding has been placed upon the calendar for hearing, the commissioner of revenue will notify the parties of the time and place of hearing not less than 15 days prior thereto. In his discretion the commissioner may adjourn

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the hearing to another time or place. Parties shall arrange to have their witnesses at the time and place designated in the notice of hearing, and exhibits must be ready for presentation at such time.

History: 1954 ACS 42, p. 15, Eff. May 15, 1965.

R 205.912 Failure to appear.

Rule 12. The unexcused absence of a party or his representative at the place and hour set for hearing of any proceeding before the commissioner of revenue will not be an occasion for delay. The hearing will proceed and the case will be regarded as submitted on the part of the absent party or parties.

History: 1954 ACS 42, p. 15, Eff. May 15, 1965.

R 205.913 Amendments.

Rule 13. Either party may amend his petition or answer at any time prior to the hearing by consent of the adverse party or by leave of the commissioner of revenue. An original and 1 copy of such amendment shall be filed with the commissioner of revenue, and the adverse party or his representative of record shall be served with a copy thereof. All motions to amend must be accompanied by the proposed amendments.

History: 1954 ACS 42, p. 15, Eff. May 15, 1965.

R 205.914 Hearings.

Rule 14. (1) The commissioner of revenue may delegate an employee of the department of revenue to hold the hearing in his behalf.

(2) All hearings before the commissioner of revenue shall be public; provided, however, that the commissioner of revenue, upon motion of the appellant, may exclude from the hearing all persons not directly interested therein. The commissioner of revenue may make such an order upon a proper showing by the appellant that information divulged would be detrimental to the appellant's business.

(3) Either party may, at his own expense, arrange to have a transcript of the proceedings.

History: 1954 ACS 42, p. 15, Eff. May 15, 1965.

R 205.915 Briefs.

Rule 15. The commissioner of revenue, or his delegate, in his discretion, may require that briefs be submitted either before or after the hearing and may designate the manner of filing and serving the same and the time therefor.

History: 1954 ACS 42, p. 15, Eff. May 15, 1965.

R 205.916 Proposed findings of fact.

Rule 16. The commissioner of revenue or his delegate may require either party to a proceeding to submit proposed findings of fact at the close of the hearing or within such time as he may direct.

History: 1954 ACS 42, p. 15, Eff. May 15, 1965.

R 205.917 Order and opinion.

Rule 17. The commissioner of revenue, after completion of the hearing, shall review the record, briefs and such other matters as may have been submitted and by written order affirm, reverse or modify the action of the city, and shall further serve upon the appellant or his duly authorized representative and the duly

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authorized official of the city by registered or certified mail with the return receipt demanded, a copy of his order and opinion.

History: 1954 ACS 42, p. 15, Eff. May 15, 1985.

TAX TRIBUNAL

PRACTICE AND PROCEDURE

(By authority conferred on the tax tribunal by sections 32 and 49 of Act No. 186 of the Public Acts of 1973, being §§205.732 and 205.749 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 205.1101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Act" means Act No. 186 of the Public Acts of 1973, as amended, being §205.701 et seq. of the Michigan Compiled Laws.

(b) "Authorized representative" means a person selected by a party to appear on his behalf before the tribunal.

(c) "Clerk" means the chief clerk or a deputy clerk of the tribunal.

(d) "General property tax act" means Act No. 206 of the Public Acts of 1893, as amended, being §§211.1 to 211.157 of the Michigan Compiled Laws.

(e) "Hearing officer or referee" means an individual other than a tribunal judge authorized to hear any matter assigned by the tribunal.

(f) "Member of tribunal" means tribunal judge with quasi-judicial powers as described in the act.

(g) "Nonproperty tax appeal" means any proceeding other than property tax appeals over which the tribunal has jurisdiction.

(h) "Property tax appeals" means real and personal property tax appeals of assessments, valuations, special assessments, refunds, allocation, equalization, or other proceedings brought before the tribunal under the property tax laws.

(i) "Small claims division" means the property and nonproperty division created by section 61 of the act.

(2) The terms defined in the act have the same meanings when used in these rules.

History: 1954 ACS 84, p. 7, Eff. Aug. 16, 1975; 1954 ACS 101, p. 12, Eff. Oct. 30, 1979.

R 205.1111 Scope.

Rule 111. (1) These rules govern the practice and procedure in all cases and proceedings before the tribunal. These rules shall be known and may be referred to as the "tax tribunal rules" and may be cited as "TTR."

(2) R 205.1601 to R 205.1650 govern the small claims division.

(3) Where there is no applicable tax tribunal rule, the Michigan General Court Rules of 1963, as amended, and chapter 4 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.271 to 24.287 of the Michigan Compiled Laws, shall govern.

History: 1954 ACS 84, p. 7, Eff. Aug. 16, 1975; 1954 ACS 101, p. 12, Eff. Oct. 30, 1979.

R 205.1115 Fees and charges.

Rule 115. Payments to the tribunal for fees or charges of the tribunal shall be made either in cash or in checks, money orders, or other drafts made payable to the order of "State of Michigan" and shall be mailed or delivered to the clerk of

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the tribunal at Lansing. The following fees shall be paid to the clerk in all proceedings other than proceedings in the small claims division and other than upon petitions filed under section 22 or 154 of the general property tax act unless the petitions are contested:

(a) Upon filing of a property tax appeal petition:

	Filing Fee
(i) Allocation, apportionment, and equalization	$250.00
(ii) State Equalized Value in Contention*	Filing Fee**
under $40,000.00	$ 50.00
$ 40,000.01 - 75,000.00	75.00
$ 75,000.01 - 150,000.00	100.00
$150,000.01 - 500,000.00	150.00
Over $500,000.00	250.00

(b) Upon filing of a nonproperty tax appeal petition: The filing fee shall be 2% of the difference between the amount of tax as determined in the assessment notice and the amount of tax as contended by the petitioner, but in no case less than $50.00, nor more than $250.00.

(c) Upon transfer of a proceeding from the small claims division to the entire tribunal on a party's or intervenor's motion	$ 25.00
(d) Upon transfer of a cause to the tribunal from any forum	25.00
(e) Upon filing of a motion	25.00
(f) Upon certification of the record on appeal to the court of appeals	25.00***
(g) For copies of documents on file with the tribunal	.50/page

*Value in contention is the difference between the state equalized value as determined from the assessment and the state equalized value contended by the petitioner.

**Multiple parcels (contiguous) owned by the same person: One filing fee plus $10.00 for each additional assessed parcel, not to exceed a total filing fee of $500.00.

***Plus the cost of the transcript.

History: 1954 ACS 84, p. 7, Eff. Aug. 16, 1975; 1954 ACS 101, p. 13, Eff. Oct. 30, 1979.

R 205.1120 Records; removal and public access.

Rule 120. (1) An original record, paper, document, or exhibit filed with the tribunal shall not be taken from the hearing room or offices of the tribunal or from the custody of a member of the tribunal, hearing officer, or referee, except as authorized by these rules or by the chairman of the tribunal or except as may be necessary for the clerk to furnish copies, to transmit records to the court of appeals or other official purposes. After the time for appeal has expired, the clerk shall make available for return each party's respective exhibits, and, if not redeemed within 90 days thereafter, dispose of them at his discretion.

(2) Except upon an order of the entire tribunal for good cause shown or as otherwise provided by law, all public records are available for inspection. Copies may be obtained from the clerk upon payment of the charge as established by these rules.

History: 1954 ACS 84, p. 8, Eff. Aug. 16, 1975; 1954 ACS 101, p. 13, Eff. Oct. 30, 1979.

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PART 2. COMMENCEMENT OF PROCEEDINGS AND PREHEARING PROCEDURES

R 205.1201 Commencement of proceedings.

Rule 201. Except in the small claims division, an appeal, application for review, or any other proceeding is commenced by filing a petition with the tribunal within the periods prescribed by statute. A petition shall be considered filed when mailed by certified mail addressed to the tribunal or when delivered in person, as permitted by GCR 1963, 107.

History: 1954 ACS 84, p. 8, Eff. Aug. 16, 1975; 1954 ACS 101, p. 13, Eff. Oct. 30, 1979.

R 205.1205 Docketing of cases.

Rule 205. (1) Upon the timely filing of the petition and payment of all required fees, the clerk shall time stamp all pleadings, assign an individual docket number to the proceeding, secure all original pleadings in a durable binder for safekeeping, and establish a separate docket record for each case on a form approved by the tribunal.

(2) The docket number assigned to each case shall be the permanent number of the proceeding and shall be affixed by the parties to future filings in the case. The separate docket record established for each case shall contain written entries of all pertinent filings and proceedings in the case and, together with the file containing all original pleadings, constitute the official public record of the case to be preserved by the tribunal as prescribed by law.

History: 1954 ACS 84, p. 8, Eff. Aug. 16, 1975.

R 205.1208 Service of papers.

Rule 208. (1) In property tax appeals, service shall be deemed proper upon units of government if the petition is served upon the certified assessor or board of assessors of the unit of government making an assessment being appealed, the city clerk in the case of cities and the township supervisor or clerk in the case of townships. Service of petitions commencing a proceeding shall be made on the above named individuals by certified mail addressed to them at their last known address or by personal service. Copies of petitions commencing a proceeding shall be sent by first class mail, or be delivered in person to the secretary of the school board in the local school district in which the property is located, the county equalization director, and the county clerk of any county which may be affected.

(2) In nonproperty tax appeals, service of the petition shall be deemed proper if made upon the state revenue commissioner or, when other than the state revenue commissioner, upon the appropriate official administering the tax being appealed. Service under this subsection shall be made by certified mail addressed to the individual named above at his last known address or by personal service.

(3) Except as may be otherwise required by these rules, all pleadings, motions, orders, decisions, notices, demands, briefs, appearances, or other documents filed with the tribunal relating to a case shall be served concurrently on each of the parties to the proceeding or his representative.

(4) All other pleadings and documents required to be served may be served by first class mail or in person as permitted by GCR 1963, 197.

(5) Proof of service shall be established by either a written acknowledgement of a receipt of a pleading or other document, dated and signed by the person authorized under these rules to receive them, or by certification stating the facts of service. Failure to make proof of service does not affect the validity of the service.

History: 1954 ACS 84, p. 8, Eff. Aug. 16, 1975; 1954 ACS 101, p. 14, Eff. Oct. 30, 1979.

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R 205.1210 Time for service of papers.

Rule 210. (1) A respondent shall serve and file his answer or take such other action as may be permitted by law within 30 days after service of a petition.

(2) An answer, motion, or other document filed or served shall be deemed to be filed or served upon mailing or upon delivery in person as permitted by GCR 1963, 107, within the time fixed for filing or service.

(3) All pleadings and other documents required to be filed or served on a day during which the offices of the tribunal are not open for business shall be filed on the next business day thereafter.

History: 1954 ACS 84, p. 9, Eff. Aug. 16, 1975; 1954 ACS 101, p. 14, Eff Oct. 30, 1979.

R 205.1215 Appearance and representation.

Rule 215. (1) Attorneys or other authorized representatives may enter an appearance either by subscribing the petition or other document initiating the participation of a party in a proceeding or by filing an appearance in the proceeding.

(2) The tribunal may require an authorized representative or agent to provide a written statement of authorization signed by the party for whom the representative appears.

(3) In the absence of appearance by an attorney or other authorized representative, a party is deemed to appear for himself. A corporation, unincorporated association, or unit of government may be represented by an authorized officer. An estate or trust may be represented by a fiduciary. A person shall state in his initial pleading or other document his name, address, and telephone number and promptly inform the clerk of the tribunal and all parties of any change in that information.

(4) All parties appearing before the tribunal shall conduct themselves with decorum.

History: 1954 ACS 84, p. 9, Eff. Aug. 16, 1975.

R 205.1220 Parties.

Rule 220. (1) The party who commences a proceeding shall be designated as petitioner and the adverse party as respondent.

(2) Upon change or transfer of interest, the proceeding may be continued by or against the original party in his original capacity, unless the tribunal directs the person to whom the interest is transferred to be substituted in the proceeding for the original party, joined with the original party or made a party in another capacity.

(3) When proceedings involving a substantial and controlling common question of law or fact are pending before the tribunal, it may do any or all of the following:

(a) Order a joint hearing on any or all the matters in issue.

(b) Order a joinder of all parties in accordance with their interests.

(c) Order the proceedings consolidated.

(d) Make such other orders concerning the proceedings as may tend to avoid unnecessary costs or delay.

(4) Parties may be added or dropped by order of the tribunal on its own initiative or on motion of any party at any stage of the proceedings and on such terms as are just.

History: 1954 ACS 84, p. 9, Eff. Aug. 16, 1975.

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R 205.1222 Amicus curiae.

Rule 222. The tribunal may upon order direct a state or local governmental unit to appear as amicus curiae or in such other capacity as the tribunal deems appropriate.

History: 1954 ACS 84, p. 10, Eff. Aug. 16, 1975.

R 205.1225 Pleadings and amended and supplemental pleadings.

Rule 225. (1) There shall be a petition and an answer. An application for review or any other document initiating a proceeding will be deemed to be a petition. An answer raising an affirmative defense or allegation shall be deemed denied and a responsive pleading thereto is not necessary. Any other pleading is not allowed except that an answer may be made to petitions or answers filed by parties who are later substituted or joined in the proceedings.

(2) A party may amend or supplement his pleading only by leave of the tribunal, except that a petition to seek refund of a tax may be amended as of right when a tax is paid while the determination of the right thereto is pending before the tribunal.

History: 1954 ACS 84, p. 10, Eff. Aug. 16, 1975.

R 205.1230 Motions.

Rule 230. (1) All requests to the tribunal shall be made by written motion filed with the clerk and accompanied by the appropriate fee. Motions shall be served concurrently by the moving party on all other parties of record and proof of service shall be filed with the clerk. Written opposition, if any, to motions shall be filed within 20 days after service.

(2) Pleading on motions is limited to the motion and brief in support thereof and a single response in objection thereto with supporting brief.

(3) The clerk shall timely submit motions and pleadings in opposition thereto to the tribunal for decision which shall be by written order. Copies of orders on motions shall be mailed to the parties.

(4) Oral argument is not allowed on motions, except on order of the tribunal.

History: 1954 ACS 84, p. 10, Eff. Aug. 16, 1975; 1954 ACS 101, p. 14, Eff. Oct. 30, 1979.

R 205.1235 General rules of pleading.

Rule 235. (1) All documents filed with the tribunal shall contain the caption, "Michigan Tax Tribunal," the title of the proceeding, the docket number after it becomes available and a designation showing the nature of the document.

(2) The original of all pleadings, motions, and briefs shall be filed with the tribunal.

History: 1954 ACS 84, p. 10, Eff. Aug. 16, 1975.

R 205.1240 Petition.

Rule 240. (1) A petition shall contain a statement of facts without repetition upon which the petitioner relies in making his claim for relief. The statement shall be made in separately designated paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single fact. Each claim shall be stated separately whenever separation facilitates the clear presentation of the matters set forth. A petition for review of assessed parcels generally may not cover more than 1 assessed parcel. However:

(a) A single petition involving real property may cover more than 1 assessed parcel if the real property is contiguous and within a single assessing unit.

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(b) A single petition involving personal property may cover personal property in more than 1 location provided the property is assessed as 1 assessment and is located within a single assessing unit.

(c) A single petition may include both real and personal property.

(2) Each petition shall contain all of the following:

(a) The petitioner's name and legal residence, or in the case of a corporation, its principal office or place of business.

(b) The name of the opposite parties.

(c) A description of the matter in controversy, including the type of tax and the year or years involved.

(d) A statement of the amount in dispute, which shall include, in nonproperty tax appeal petitions, a statement of that portion of tax admitted to be correct, if any, and a copy of the assessment or other notice attached to the petition.

(e) In assessment, valuation, or exemption petitions, a statement as to whether the matter in controversy has been timely protested, and the date thereof, to the local board of review and, if applicable, the date of receipt of the disputed tax bill.

(f) A clear and concise statement of the facts upon which the petitioner relies, except those facts as to which the burden of proof is on the opposite party.

(g) The relief sought.

(h) The signature of the petitioner and his attorney or other authorized representative.

(3) In equalization, allocation, and apportionment appeals, the petition shall be sworn to and be in compliance with the applicable statutes.

History: 1954 ACS 84, p. 10, Eff. Aug. 16, 1975; 1954 ACS 101, p. 14, Eff. Oct. 30, 1979.

R 205.1245 Answers.

Rule 245. (1) The respondent shall have 30 days from the date of service of the petition within which to file an answer or other responsive pleading.

(2) The answer shall be drawn so that it will advise fully of the nature of the defense, and shall contain a specific admission or denial of each material allegation in the petition. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, he shall so state and the statement shall have the effect of a denial. If the respondent intends to qualify or to deny only a part of an allegation, he shall specify so much of it as is true and shall qualify or deny only the remainder. In addition, the answer shall contain a clear and concise statement of every ground on which the respondent relies and has the burden of proof. Paragraphs of the answer shall be designated to correspond to those of the petition to which they relate.

(3) An answer may assert as many defenses as the respondent may have against an opposing party. A defense is not waived by being joined with 1 or more other defenses. All defenses not asserted in either the answer or by appropriate motion are waived, except the following:

(a) Lack of jurisdiction.

(b) Failure to state a claim.

(c) Failure to state a valid defense.

History: 1954 ACS 84, p. 11, Eff. Aug. 16, 1975; 1954 ACS 101, p. 15, Eff. Oct. 30, 1979.

R 205.1247 Defaults, dismissals, and transfers.

Rule 247. (1) When a party has failed to plead, appear, or otherwise proceed as provided by these rules or as required by the tribunal, he may be held in default by the tribunal on motion of another party or on the initiative of the tribunal.

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Thereafter, the tribunal may enter a decision against the defaulting party upon such terms and conditions as the tribunal deems proper.

(2) A proceeding may be dismissed voluntarily by the petitioner before the first responsive pleading. Thereafter, a voluntary dismissal shall be granted only upon stipulation of all the parties.

(3) Failure of a petitioner to properly prosecute the appeal or comply with these rules is cause for dismissal.

(4) Defaults, dismissals, or decisions rendered thereon may be set aside by the tribunal for reasons it deems sufficient upon motion made within 20 days of entry of the order of default or dismissal.

(5) By stipulation of the parties, or by a petitioner's motion and notice to the adverse party, the tribunal may transfer a matter to the small claims division by order.

History: 1954 ACS 84, p. 11, Eff. Aug. 16, 1975; 1954 ACS 101, p. 15, Eff. Oct. 30, 1979.

R 205.1249 Equalization, allocation, apportionment, and nonproperty tax appeals.

Rule 249. In the case of equalization, allocation, apportionment, and nonproperty tax appeals, the prehearing and discovery procedures fixed by R 205.1250 to R 205.1270 do not apply, unless otherwise ordered by the tribunal.

History: 1954 ACS 101, p. 16, Eff. Oct. 30, 1979.

R 205.1250 Counsel conference.

Rule 250. (1) In all proceedings, except as provided in R 205.1249, the petitioner or representative shall arrange for a conference with all other parties or representatives to:

(a) Discuss the possibility of settlement. Petitioner and respondent shall each express a good faith estimate of the true cash value of the subject property.

(b) Stipulate evidence to the fullest extent to which complete or qualified agreement can be reached, including all material facts that are not or fairly should not be in dispute.

(c) Consider all other matters that may aid in the disposition of the proceeding.

(2) The conference shall be held within 30 days after the filing of an answer at a time and place mutually agreed to or, if no agreement can be reached, fixed by order of the tribunal.

(3) The petitioner shall prepare a summary of the results of this conference which shall be served upon all opposing parties and together with proof of service filed with the clerk within 10 days after the conference. Any objections to the summary shall be filed with the clerk within 10 days after the filing of the summary.

History: 1954 ACS 84, p. 11, Eff. Aug. 16, 1975; 1954 ACS 101, p. 16, Eff. Oct. 30, 1979.

R 205.1252 Prehearing valuation disclosure.

Rule 252. (1) Without permission of the tribunal for good cause shown, an assessor or expert witness may not testify as to the value of property without submission of a written report, such as an appraisal or an appraisal card, containing the person's value conclusions and the basis therefor. The report shall be supplied to the opposing party or their counsel within 120 days after the counsel conference required by R 205.1250.

(2) Within 120 days after the counsel conference required by R 205.1250, each party shall provide the opposing party with the name and address of any person who may testify on matters pertaining to value, together with a general summary

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of the subject area of such testimony. A person not so disclosed shall not be permitted to give testimony, unless, for good cause shown, the tribunal permits the testimony to be taken.

History: 1954 ACS 84, p. 12, Eff. Aug. 16, 1975; 1954 ACS 101, p. 16, Eff. Oct. 30, 1979.

R 205.1255 Interrogatories to parties.

Rule 255. (1) A party to a proceeding may file and serve upon all adverse parties written interrogatories to be answered by the party to whom the interrogatories are directed.

(2) Interrogatories shall be answered separately and fully in writing under oath. If an interrogatory is objected to, the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the person making them and shall contain such information as is available to the party served or that could be obtained by such party from its employees, agents, representatives, or persons who may testify on the party's behalf. The party to whom the interrogatories are directed shall file and serve a copy of the answers on the party submitting the interrogatories and on all other parties within 30 days after service of interrogatories.

(3) If any of the interrogatories have not been answered within the time specified under subrule (2), the tribunal, on motion and for good cause shown, may issue an order compelling response. A party failing to answer interrogatories pursuant to an order of the tribunal is in default.

(4) To the extent that answers are admissible as evidence before the tribunal, any or all of the answers to interrogatories may be used against the party making them, and an adverse party may introduce an answer which has not been previously offered in evidence by a party.

(5) A person answering interrogatories is not the witness of the party submitting the interrogatories.

(6) By tribunal order, interrogatories may be limited as justice requires to protect the answering party from annoyance, expense, embarrassment, oppression, or violation of a privilege.

(7) A party who has given a response that was complete when made is not under a duty to supplement the response to include information thereafter acquired, unless ordered by the tribunal, except as follows:

(a) To supplement the response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters; and the identity of each person expected to be called as a witness at the hearing, the subject matter on which the witness is expected to testify, and the substance of the witness's testimony.

(b) To amend a prior response if the party obtains information upon the basis of which a party knows that the response was incorrect when made, or that the response, though correct when made, is no longer true and the circumstances are such that a failure to amend the response is, in substance, a knowing concealment.

History: 1954 ACS 84, p. 12, Eff. Aug. 16, 1975; 1954 ACS 101, p. 16, Eff. Oct. 30, 1979.

R 205.1257 Depositions.

Rule 257. Parties may stipulate to take depositions or may, by written motion, request to take the testimony of any person, including a party, by deposition for the purpose of discovery or for use as evidence in the action, or for both purposes, and the tribunal, in its discretion, may order the taking of depositions.

History: 1954 ACS 84, p. 13, Eff. Aug. 16, 1975; 1954 ACS 101, p. 17, Eff. Oct. 30, 1979.

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R 205.1260 Discovery and production of documents and things for inspection, copying, or photographing.

Rule 260. (1) After filing of a petition invoking the jurisdiction of the tribunal, the tribunal upon motion of a party and upon notice to all other parties may:

(a) Order a party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things, not privileged, coming within scope of discovery permitted by R 205.1255 and which are in his possession, custody, or control.

(b) Direct a person on whom a subpoena duces tecum has been served, to permit the inspection and copying or photographing of such books, papers, documents, or tangible things subpoenaed.

(2) The order shall specify the time, place, and manner of making the inspection and copies, photographs, or samplings and may prescribe such terms and conditions as are just.

(3) If the party or person claims that the item is not in his possession or control or that he does not have information calculated to lead to discovery of its whereabouts, he may be ordered to submit to examination before a tribunal member or other means of discovery regarding the claim.

(4) If the tribunal secures information or documentation from persons other than the parties to the proceedings, it shall make the information or documentation available to the parties within a reasonable time prior to the hearing.

History: 1954 ACS 84, p. 13, Eff. Aug. 16, 1975.

R 205.1262 Rescinded.

History: 1954 ACS 84, p. 13, Eff. Aug. 16, 1975; rescinded 1954 ACS 101, p. 17, Eff. Oct. 30, 1979.

R 205.1264 Consequences of refusal to make discovery.

Rule 264. (1) If a party or other person to whom discovery is directed refuses to answer a question after being directed to do so by the tribunal, the proponent of the question may file a petition with the circuit court for Ingham county or the county in which the discovery is being taken to compel the party or person to whom the discovery is directed to comply with the order of the tribunal.

(2) If a party refuses to obey an order made under subrule (3) of R 205.1255, subrule (1) of this rule requiring him to answer designated questions, or an order made under R 205.1260, the tribunal may make such orders in regard to the refusal as justice requires.

History: 1954 ACS 84, p. 14, Eff. Aug. 16, 1975; 1954 ACS 101, p. 17, Eff. Oct. 30, 1979.

R 205.1270 Prehearing conference.

Rule 270. (1) In all proceedings before the entire tribunal, a prehearing conference shall be held, unless otherwise ordered or dispensed with by the tribunal.

(2) Not less than 10 days before the prehearing conference, each party shall exchange and file with the clerk a prehearing statement in such form as the tribunal may require.

(3) The purpose of the prehearing conference is to:

(a) State and simplify the factual and legal issues to be litigated, consider the formal amendment of all petitions and answers or their amendment by prehearing order, and if desirable or necessary, to order that such amendments be made.

(b) Consider the consolidation of petitions for hearing, the separation of issues, and the order in which issues are to be heard.

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(c) Consider admissions of fact, including level of assessment and authenticity of documents, including statutes, ordinances, charters, and regulations which will avoid unnecessary proof.

(d) Identify all witnesses.

(e) Specify all sums in controversy and the particular issues to which they relate.

(f) Produce all exhibits in support of the main case or defense and admit the authenticity of exhibits whenever possible.

(g) Estimate the time required for hearing.

(h) Disclose and consider costs and the taxation thereof.

(i) Discuss the possibility of settlement.

(j) Consider all other matters that may aid in the disposition of the proceeding.

(4) The prehearing conference shall be held 180 days after the filing of a petition initiating a proceeding or as soon thereafter as the schedule of the tribunal may permit. By stipulation of all parties with the concurrence of the tribunal, or by order of the tribunal, the time for the prehearing conference may be accelerated.

(5) The person conducting the prehearing conference shall inquire of the parties as to whether or not all claims arising out of the appealed finding, ruling, determination, decision, or order have been joined. The answers to such inquiry and each finding, ruling, determination, decision, or order pertaining to this subject shall be included in the summary of the results of the conference.

(6) The person conducting the prehearing conference shall prepare, or direct a party or parties to prepare, file, and cause to be served upon the parties, their representatives, or attorneys of record, not less than 10 days in advance of hearing, a summary of the results of the conference specifically covering each of the items stated in the rule. The summary of results controls the subsequent course of the proceeding unless modified at or before hearing by the tribunal to prevent manifest injustice. The tribunal may provide a prehearing calendar on which proceedings may be placed for consideration, and may also amplify or modify the prehearing procedure as justice requires, but not in conflict with these rules.

(7) The person conducting the prehearing conference may direct counsel to furnish the tribunal with a hearing brief as to all or any of the issues involved in the proceeding. This subrule does not preclude the filing of a hearing brief not less than 5 days before the date set for hearing.

(8) Discovery shall not be conducted after completion of the prehearing conference, unless ordered by the tribunal.

(9) Failure to appear at a duly scheduled prehearing conference is a default.

History: 1954 ACS 84, p. 14, Eff. Aug. 16, 1975; 1954 ACS 101, p. 17, Eff. Oct. 30, 1979.

R 205.1275 Supplemental discovery and prehearing procedure.

Rule 275. The tribunal may issue orders dispensing with the counsel conference required by R 205.1250 or extending the time fixed by R 205.1250 for holding the conference; extending the time for submitting and the scope of interrogatories fixed by subrules (1) and (2) of R 205.1255 and making such other changes in the prehearing and discovery procedures fixed by R 205.1250 to R 205.1270 as justice may require to achieve a full and fair hearing of a matter before the tribunal.

History: 1954 ACS 84, p. 15, Eff. Aug. 16, 1975; 1954 ACS 101, p. 18, Eff. Oct. 30, 1979.

R 205.1280 Rescinded.

History: 1954 ACS 84, p. 15, Eff. Aug. 16, 1975; 1954 ACS 101, p. 18, Eff. Oct. 30, 1979.

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PART 4. HEARING AND POSTHEARING PROCEDURES

R 205.1401 Hearing docket.

Rule 401. (1) When a proceeding is ready for hearing, the clerk shall schedule the matter at a time and place to be designated by the tribunal either on an individual case basis or by the general trial docket. The clerk shall send notice of the time, date, and place of hearing to all parties or their representatives not less than 30 days prior to the hearing. When a general call docket is established, the clerk shall send notice of the time, date, and place for the hearing of case number 1 to all parties or their representatives listed on that general call docket not less than 30 days prior to the hearing. In all succeeding cases which appear on the general call docket, the parties or their representatives shall be telephonically notified by the clerk not less than 24 hours prior to the hearing. The tribunal may in its discretion reduce or increase the 30-day period by order.

(2) One adjournment of hearing may be authorized by the tribunal clerk. Succeeding adjournments of hearings shall be granted only by order of the tribunal.

History: 1954 ACS 84, p. 15, Eff. Aug. 16, 1975; 1954 ACS 101, p. 18, Eff. Oct. 30, 1979.

R 205.1405 Subpoenas.

Rule 405. (1) On written request of a party to a proceeding, the tribunal, through the clerk, shall issue subpoenas for the attendance and testimony of witnesses and the production of evidence, including but not limited to, books, records, correspondence, and documents in their possession or under their control.

(2) A witness to whom a subpoena has been issued may file a motion under R 205.1230 to revoke the subpoena if the evidence sought to be produced does not relate to a matter in issue, if the subpoena does not describe the evidence sought with sufficient particularity, or if the subpoena is invalid for any legal reason.

(3) Proceedings to enforce a subpoena may be commenced in the circuit court for Ingham county or the county in which the hearing is held.

History: 1954 ACS 84, p. 15, Eff. Aug. 16, 1975.

R 205.1410 Conduct of hearings.

Rule 410. (1) The tribunal may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law.

(2) Witnesses before the tribunal shall swear or affirm before a member thereof to give full and truthful testimony.

(3) All proceedings before the tribunal shall be recorded either electronically or stenographically, or both, in the discretion of the tribunal.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975.

R 205.1430 Briefs.

Rule 430. The tribunal may order the parties to submit proposed findings of fact and conclusions of law, or briefs, or any of them and designate the manner and time for filing and serving them.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975; 1954 ACS 101, p. 18, Eff. Oct. 30, 1979.

R 205.1435 Decisions and opinions.

Rule 435. (1) A decision shall be stated in a written opinion or opinion stated on the record. An opinion shall include a concise statement of facts and

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conclusions of law, and, upon order of the tribunal, shall be officially reported and published.

(2) A decision or order may be amended or vacated on rehearing.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975; 1954 ACS 101, p. 18, Eff. Oct. 30, 1979.

R 205.1440 Effective date of decisions and orders.

Rule 440. (1) Decisions and orders of the tribunal, including decisions and orders on rehearing, are effective when officially entered by the clerk.

(2) Notice of entry and a copy of the decision and order shall be sent to the parties at the time of entry.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975; 1954 ACS 101, p. 18, Eff. Oct. 30, 1979.

R 205.1445 Rehearings.

Rule 445. The tribunal may order a rehearing upon its own motion or the motion of any party filed within 20 days of the entry of the order or decision sought to be reheard. The filing of a motion for rehearing tolls the appeal period and any party shall have 20 additional days after a decision or denial of such motion for rehearing to appeal the order or decision which the motion related to.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975.

R 205.1450 Corrections of clerical errors.

Rule 450. Clerical mistakes in decisions or orders of the tribunal, or in the records of any proceedings arising from oversight or omission, may be corrected by order of the tribunal at any time on motion of a party or on its own initiative.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975; 1954 ACS 101, p. 18, Eff. Oct. 30, 1979.

R 205.1455 Disability of tribunal members.

Rule 455. In the event of the death, sickness, or disability of a member of the tribunal after the member has heard any part of a proceeding, his successor or alternate may continue the proceeding, decide the matter, if, in the discretion of the tribunal, such action will not injure a party to the proceeding or otherwise result in injustice, or the tribunal, in its discretion, may order the matter reheard.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975; 1954 ACS 101, p. 19, Eff. Oct. 30, 1979.

R 205.1460 Witness fees.

Rule 460. A witness summoned to a hearing or other proceeding, or whose deposition is taken, shall receive the same fees and mileage as witnesses in the circuit courts of the state. A witness shall not be required to testify until the fees and mileage provided for have been tendered to him by the party at whose instance he has been subpoenaed.

History: 1954 ACS 84, p. 16, Eff. Aug. 16, 1975.

R 205.1462 Costs.

Rule 462. (1) Costs shall be allowed only when provided for by the tribunal in a final judgment or order.

(2) When costs are allowed, the prevailing party shall file a bill of costs with the clerk within 10 days following a final decision of the tribunal and furnish a copy thereof to all other parties to the action. A party shall have 10 days after the service of the bill of costs to protest it or any item thereon. A protest shall be filed with the tribunal. If objections are filed, the clerk may set the same for a hearing or present such objections as a motion before the tribunal. Failure to file the bill of costs within the 10-day period constitutes a waiver of any right thereto.

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(3) The bill of costs shall state each item claimed and the amount thereof separately and shall be verified by affidavit of the party or representative. The affidavit shall state that each item is correct and that the same was necessarily incurred.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975; 1954 ACS 101, p. 19, Eff. Oct. 30, 1979.

R 205.1471 Appeals.

Rule 471. All appeals from decisions of the tribunal shall be taken in accordance with section 53 of the act. When an appeal is taken to the court of appeals, the appellant shall file a copy of the claim of appeal or application for leave to appeal with the clerk of the tribunal.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975.

R 205.1475 Record on appeal.

Rule 475. (1) When the clerk of the court of appeals gives notice to the clerk pursuant to GCR 1963, 812.3(2) that the cause is ready for submission, or at any time upon order of the court, the clerk shall transmit the record promptly to the court of appeals.

(2) The record shall consist of the tribunal's original file, including the following:

(a) A certified list of docket entries showing the dates of filing and the nature of all documents filed and the date and disposition of all proceedings conducted.

(b) All original papers, including notices, pleadings, motions, briefs, intermediate rulings and the decision, opinion, or order appealed.

(c) Transcripts of all hearings.

(d) Exhibits.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975.

PART 6. SMALL CLAIMS DIVISION; PROPERTY AND NONPROPERTY

R 205.1601 Scope.

Rule 601. This part governs the practice and procedure in all matters before the small claims division of the tribunal.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975; 1954 ACS 101, p. 19, Eff. Oct. 30, 1979.

R 205.1605 Record and fees.

Rule 605. A formal record shall not be taken, nor shall any fees or costs be charged or allowed, for any proceeding commenced and completed in the small claims division.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975; 1954 ACS 101, p. 19, Eff. Oct. 30, 1979.

R 205.1610 Jurisdiction.

Rule 610. (1) A property tax matter may be heard in the small claims division if any 1 of the following properties is exclusively involved:

(a) Residential or homestead property.

(b) Agricultural property.

(c) Income-producing residential property consisting of less than 4 rental units.

(d) Any other property where the assessed valuation of the property, after applying the state equalization factor, shall not be increased or decreased by more than $20,000.00.

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(2) A nonproperty tax matter may be heard in the small claims division if the amount of tax in dispute does not exceed $1,000.00, exclusive of interest or penalty charges.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975; 1954 ACS 101, p. 19, Eff. Oct. 30, 1979.

R 205.1612 Petitioner's election of small claims division.

Rule 612. A petitioner who wishes to have a matter heard in the small claims division shall elect to do so.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975; 1954 ACS 101, p. 19, Eff. Oct. 30, 1979.

R 205.1613 Appearance and protest to local board of review.

Rule 613. In assessment appeals, the valuation of the same property shall be protested before the local board of review.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975.

R 205.1615 Intervention and transfers.

Rule 615. (1) Prior to a hearing, a party or intervenor by motion and notice may request a transfer of the proceeding from the small claims division to the entire tribunal. If the request is granted, the moving party shall pay the reasonable expenses incurred by the other parties incidental to the transfer and any costs resulting from subsequent appeals.

(2) With the permission of the petitioner, the division or the chairman may refer a proceeding to the entire tribunal for its decision.

(3) Except as provided in subrule (1), motion practice shall not be conducted in the small claims division.

History: 1954 ACS 84, p. 17, Eff. Aug. 16, 1975; 1954 ACS 101, p. 19, Eff. Oct. 30, 1979.

R 205.1617 Appearance and representation.

Rule 617. (1) A party may appear for himself, be represented by an attorney, or be represented by such other party as he may choose.

(2) Petitioner's failure to appear or be represented at a scheduled hearing shall result in either a dismissal of the appeal or in a consideration and decision on the evidence and pleadings submitted.

(3) All persons appearing before the small claims division shall conduct themselves with decorum.

History: 1954 ACS 84, p. 18, Eff. Aug. 15, 1975; 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

R 205.1620 Commencement of proceedings.

Rule 620. (1) Subject to the provisions of R 205.1612 requiring an election, a proceeding before the small claims division may be commenced by mailing or delivering a letter to the tribunal within the time prescribed by statute giving the name and mailing address of the petitioner and respondent. In property tax appeals, include the township or city and county in which the property is located, and, if available, attach a copy of the notice or action taken by the local board of review. In nonproperty tax appeals, attach a copy of the assessment notice.

(2) Upon receipt of the letter from the petitioner, the clerk of the tribunal shall send the petitioner a form to be completed and returned to the tribunal within 30 days after mailing. Failure to complete and return the form within the 30 days shall result in a dismissal of the petition.

History: 1954 ACS 84, p. 18, Eff. Aug. 16, 1975; 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

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R 205.1630 Notice to respondent of appeal.

Rule 630. Upon timely receipt of the completed form from the petitioner, the clerk of the tribunal shall forward a copy of the completed form to the respondent.

History: 1954 ACS 84, p. 18, Eff. Aug. 16, 1975; 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

R 205.1632 Answers to petitions.

Rule 632. (1) Answers to petitions shall be filed with the tribunal within 30 days after notice required by R 205.1630 on a form available from the tribunal, or in a written response substantially in compliance therewith, that fully sets forth the facts upon which the defense of the matter rests.

(2) The respondent shall serve upon petitioner a copy of the answer and any supporting documentation filed with the tribunal.

History: 1954 ACS 84, p. 18, Eff. Aug. 16, 1975; 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

R 205.1633 Stipulations.

Rule 633. A consent judgment may be entered upon submission of a stipulation by all parties in interest as to true cash value, if such stipulation is found to be acceptable by the tribunal.

History: 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

R 205.1635 Hearing sites.

Rule 635. (1) For property tax appeals, hearing of small claims shall be conducted at the county seat in which the property is located or the county seat of a county contiguous thereto.

(2) For nonproperty tax appeals, hearing of small claims shall be conducted at a site to be determined by the tribunal.

History: 1954 ACS 84, p. 18, Eff. Aug. 16, 1975; 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

R 205.1640 Notice of hearing.

Rule 640. The clerk shall send the parties notice of the time, date, and place of the hearing at least 14 days prior to the hearing.

History: 1954 ACS 84, p. 18, Eff. Aug. 16, 1975.

R 205.1642 Conduct of hearing.

Rule 642. (1) The tribunal may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law.

(2) A copy of an appraisal report or other written evidence shall be submitted to the opposing party not less than 10 days before the date of the hearing.

(3) Witnesses testifying at hearings shall swear or affirm to give full and truthful testimony.

History: 1954 ACS 84, p. 18, Eff. Aug. 15, 1975; 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

R 205.1645 Decisions and effective date.

Rule 645. (1) A decision of the small claims division shall be in writing.

(2) A decision shall become effective when officially entered by the clerk, at which time the clerk shall mail a copy of the decision and order to all parties to the proceeding.

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(3) Within 20 days after issuance of an order by a hearing referee, a party may request a rehearing by a tribunal member. The rehearing shall be conducted as a de novo proceeding at a site to be determined by the tribunal.

History: 1954 ACS 84, p. 18, Eff. Aug. 16, 1975; 1954 ACS 101, p. 20, Eff. Oct. 30, 1979.

R 205.1648 Appeal.

Rule 648. There shall be no appeal from a decision rendered by a tribunal member in the small claims division.

History: 1954 ACS 84, p. 19, Eff. Aug. 16, 1975; 1954 ACS 101, p. 21, Eff. Oct. 30, 1979.

R 205.1650 Corrections of clerical errors.

Rule 650. Clerical errors in decisions or judgments of this division may be corrected by this division.

History: 1954 ACS 84, p. 19, Eff. Aug. 16, 1975.

REVENUE DIVISION

INCOME TAX

(By authority conferred on the department of treasury by sections 3 and 13 of Act No. 122 of the Public Acts of 1941, as amended, and sections 9 and 83 of Act No. 380 of the Public Acts of 1965, being §§205.3, 205.13, 16.109, and 16.183 of the Michigan Compiled Laws)

R 206.1 "Business income" defined.

Rule 1. "Business income" means that income which is derived during the regular course of a taxpayer's trade or business. The expenses incurred in deriving the income are allowed as a deduction from gross income in determining the taxpayer's adjusted gross income.

History: 1954 ACS 95, p. 6, Eff. Apr. 5, 1978.

R 206.2 Employee.

Rule 2. (1) The term "employee" is defined in section 8(2) of Act No. 281 of the Public Acts of 1967, as amended, being §206.8(2) of the Michigan Compiled Laws.

(2) The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a state, territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any 1 or more of the foregoing.

(3) Generally, the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished; that is, an employee is subject to the will and control of the employer, not only as to what shall be done, but also as to how it shall be done. However, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the

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furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work but not as to the means and methods for accomplishing the result, he is not an employee.

(4) Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees.

(5) Whether the relationship of employer and employee exists shall, in doubtful cases, be determined upon an examination of the particular facts of each case.

(6) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. For example, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

(7) All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, and other supervisory personnel are employees. Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services, or performs only minor services, and who neither receives nor is entitled to receive, directly or indirectly, any remuneration, is not considered to be an employee of the corporation. A director of a corporation in his capacity as a director is not an employee of the corporation.

(8) The term "employee" includes every individual who receives a supplemental unemployment compensation benefit, which is treated as wages.

History: 1954 ACS 95, p. 6, Eff. Apr. 5, 1978.

R 206.3 Employer.

Rule 3. (1) The term "employer" is defined in section 8(3) of Act No. 281 of the Public Acts of 1967, as amended, being §206.8(3) of the Michigan Compiled Laws.

(2) The term "employer" means any person for whom an individual performs or performed any service, of whatever nature, as the employee of such person.

(3) It is not necessary that the services be continuing at the time the wages are paid in order that the status of employer exist. Thus, for purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an employer.

(4) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for, or on behalf of, the trust or estate, is generally the employer.

(5) The term "employer" embraces not only individuals and organizations engaged in a trade or business, but also organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the states, territories, Puerto Rico, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions.

(6) The term "employer" also means any person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, including Puerto Rico as if a part of the United States.

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(7) If the person for whom the services are or were performed does not have legal control of the payment of the wages for such services, the term "employer" means, except for the purpose of the definition of "wages," the person having such control. For example, where wages, such as certain types of pensions or retirement pay, are paid by a trust and the person for whom the services were performed has no legal control over the payment of such wages, the trust is the employer.

(8) The term "employer" also means a person making a payment of a supplemental unemployment compensation benefit when it is treated as if it were wages under the internal revenue code, 26 U.S.C. §3401. For example, if supplemental unemployment compensation benefits are paid from a trust which was created under the terms of a collective bargaining agreement, the trust shall generally be deemed to be the employer. However, if the person making such payment is acting solely as an agent for another person, the term "employer" shall mean such other person and not the person actually making the payment.

(9) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax, and for furnishing the statements required under chapter 7 of the Michigan income tax act of 1967.

History: 1954 ACS 95, p. 7, Eff. Apr. 5, 1978.

R 206.4 "Household income" defined.

Rule 4. (1) "Income" means the sum of federal adjusted gross income as defined in the internal revenue code, 26 U.S.C. §62 plus:

(a) Benefits received from federal social security, including supplemental security income (SSI), and railroad retirement benefits.

(b) Cash public assistance payments paid by a governmental unit.

(c) Unemployment insurance benefits.

(d) Worker's compensation payments whether for temporary disability, permanent disability, or death.

(e) Veteran's disability payments, pension benefits, or mustering out payments.

(f) Amounts received for loss of wages due to permanent disability.

(g) Amounts received as damages for personal injury or sickness.

(h) Amounts in excess of the claimant's contributions received from a pension plan or annuity.

(i) Life insurance proceeds, except benefits from insurance on a spouse.

(j) Money received from a person not a member of the same household who is legally obligated to support a member of the household.

(k) An inheritance, bequest, or devise, excluding an inheritance from a spouse.

(l) Educational benefits received under federal or state legislation with respect to services in the military or naval forces of the United States.

(m) A scholarship or other educational grant.

(n) Income from an obligation issued by a state or its political subdivisions, including this state.

(o) Gifts in cash or kind from nongovernmental sources exceeding $300.00.

(p) The portion of capital gains and dividends excluded or deducted from federal gross income.

(q) Death benefits paid by, or on behalf of, an employer.

(r) The portion of lump sum distributions from pension deducted from federal gross income.

(s) Earned income from foreign sources excluded from federal gross income.

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(t) Accumulation distributions received from a trust not previously included in the claimant's adjusted gross income.

(2) "Household income" does not include:

(a) Surplus foods.

(b) Relief in kind by a governmental unit such as medicaid payments to a nursing home or doctor, or rent paid, in whole or in part, directly to the landlord. Chore service payments are income to the provider but not to the person receiving the benefits.

(c) Governmental grants which must be used by the claimant to improve a homestead.

(d) State and city income tax refunds, including homestead property tax credits. Farmland preservation tax credits shall be included in federal adjusted gross income and household income.

(e) Amounts deducted from social security or railroad retirement benefits for medicare premiums.

(f) Amounts paid by an employer for life, health, or accident insurance.

(g) The first $300.00 in income from gambling, bingo, lottery, or prizes and awards.

(3) Effective with the calendar year 1977, any health or accident insurance premiums paid, in whole or in part, by the claimant, and not by an employer, for himself and his family are deductible from gross income to arrive at household income.

History: 1954 ACS 95, p. 7, Eff. Apr. 5, 1978.

R 206.5 Residency; determination guidelines.

Rule 5. (1) A person who is domiciled in this state is a resident of this state. "Domicile" means the fixed, permanent, and principal home to which a person, wherever temporarily located, always intends to return. A person may have several residences or dwelling places but only may have 1 domicile at a particular time. Domicile, once established, is not lost until there is a concurrence of all of the following:

(a) The specific intent to abandon the old domicile.

(b) The intent to acquire a specific new domicile.

(c) Actual physical presence in the new state of domicile. Generally, the domicile of the wife follows that of the husband.

(2) To overcome the presumption of residency, as stated in subrule (1), a taxpayer shall present detailed factual data to the department. Factors to be considered in determining a taxpayer's residency or domicile include where he keeps his most important possessions, houses his family, votes, maintains club and lodge memberships, buys automobile licenses, maintains a mailing address and banks, operates a business, or sues for divorce. However, no one of these factors is controlling. The failure of a person to pay income taxes in the state to which he claims to have domicile is very significant.

(3) A person whose residency cannot be determined by the above guidelines shall be deemed a resident of Michigan if he lives within the state for not less than 183 days during the tax year or for more than ½ the days during a taxable year of less than 12 months.

History: 1954 ACS 95, p. 8, Eff. Apr. 5, 1978.

R 206.6 Income from obligations and securities of states other than Michigan.

Rule 6. (1) Gross interest and dividend income from obligations and securities of states other than Michigan, and their political subdivisions, not subject to

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federal income taxes, including such interest and dividends from qualifying mutual funds, shall be added to adjusted gross income.

(2) The income may be reduced by related expenses not deducted in computing federal adjusted gross income because of the internal revenue code, 26 U.S.C. §265(1).

(a) Example:

Gross interest income from state of Ohio bonds	$600.00
Expense (investment counseling fees, bank charges, brokerage fees)	32.00
Interest income to be added to adjusted gross income	$568.00

(b) Interest on indebtedness incurred in carrying the obligation or security is not deductible from the interest or dividend income.

History: 1954 ACS 95, p. 8, Eff. Apr. 5, 1978.

R 206.7 Add back of taxes on or measured by income.

Rule 7. (1) Taxes on or measured by income deducted in computing federal adjusted gross income shall be added back to federal adjusted gross income to determine the income subject to Michigan income tax.

(2) An individual who receives distributive income from partnerships, joint ventures, and subchapter S corporations is required to make the adjustment in subrule (1) if the partnership, joint venture, or subchapter S corporation paid city or state income tax on its distributive income and did not add back such taxes to the amounts distributed to the partners or shareholders.

History: 1954 ACS 95, p. 9, Eff. Apr. 5, 1978.

R 206.8 Losses on sale or exchange of United States obligations; reporting.

Rule 8. Losses on the sale or exchange of United States obligations, the income of which the state is prohibited from taxing, shall be subtracted from federal adjusted gross income. To do this, file form MI-1040D and enter a zero in column "Z" of the line on which the loss is reported.

(a) Example:

Mr. Smith is reporting a gain from the sale of stock in the amount of $2,100.00 and a loss from the sale of United States obligations in the amount of $900.00.

(b) These transactions are reported on form MI-1040D as follows:

Long-term capital gains and losses—assets held more than 6 months

	Date Acquired	Date Sold	Federal Gain Col. Y	Michigan Gain Col. Z
6. Stock	9-30-68	10-1-77	$2,100.00	$2,100.00
U.S. obligation	4-1-69	7-10-77	(900.00)	—0—
7. Capital gain distributions				
8. Enter gain if applicable from form MI-4797 line 4(a)(1)				
9. Enter your share of net long-term gain or (loss) from partnerships and fiduciaries				
10. Enter your share of net long-term gain from small business corporations (subchapter S)				
11. Net gain or (loss), combine lines 6 through 10			1,200.00	2,100.00

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	Date Acquired	Date Sold	Federal Gain Col. Y	Michigan Gain Col. Z
12. Long-term capital loss carryover attributable to years beginning after 1969			( )	( )
13. Net long-term gain or (loss), combine lines 11 and 12			1,200.00	2,100.00
14. Combine the amounts shown on lines 5 and 13 and enter the net gain (loss) here			1,200.00	2,100.00
15. If line 14 shows a gain—				
(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller. Enter zero if there is a loss or no entry on line 13			600.00	1,050.00
(b) Subtract line 15(a) from line 14. Enter here and carry amount in column Y to MI-1040 line 39(a) carry amount in column Z to MI-1040 line 32(a)			600.00	1,050.00

History: 1954 ACS 95, p. 9, Eff. Apr. 5, 1978.

R 206.9 Interest income and gains from sale or disposal of United States obligations exempted from state taxation; treatment; interest on federal income tax refunds.

Rule 9. (1) Interest income and gains from the sale or disposal of United States obligations, which are exempted from state taxation by the United States Constitution, treaties, and statutes, are deductible from adjusted gross income. The deduction for such income shall be reduced by any interest on indebtedness incurred in carrying the United States obligation and by any other expense, including amortized bond premiums, deducted from gross income to arrive at adjusted gross income. The income from the following United States obligations is not subject to state income tax:

(a) United States treasury bonds, notes, bills, and savings bonds.

(b) Bonds, notes, debentures, and other obligations issued by:

(i) Federal intermediate credit banks.

(ii) Federal land banks.

(iii) Federal home loan banks.

(iv) Central banks for co-operatives.

(v) Regional banks for co-operatives.

(vi) Tennessee valley authority.

(vii) United States postal service obligations.

(2) Interest on federal income tax refunds is not exempted from state taxation and shall not be claimed as a deduction.

History: 1954 ACS 95, p. 10, Eff. Apr. 5, 1978.

R 206.10 Compensation for service in the armed forces of the United States; treatment.

Rule 10. (1) Compensation paid from federal appropriations, including retirement benefits, for military services in the armed forces is exempt from Michigan income tax, and is deductible from adjusted gross income by the recipient to the extent it is included in federal adjusted gross income.

(a) Example 1. Active duty personnel

All military compensation is exempt.

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(b) Example 2. Reservist

$10,000.00	Compensation from civilian employment
500.00	Active duty military pay
10,500.00	Federal adjusted gross income
500.00	Deduct military pay
$10,000.00	Income subject to Michigan income tax

The $500.00 active duty military pay was paid from federal appropriations and is not subject to Michigan income tax.

(c) Example 3. National guardsman

$10,000.00	Compensation—Civilian employment
500.00	Two weeks' camp and monthly military pay
250.00	Riot duty (emergency declared by governor)
10,750.00	Adjusted gross income
500.00	Deduct
$10,250.00	Income subject to Michigan income tax

The guardsman was federalized during the 2 weeks at camp and at the monthly military drills. The pay for these came from federal appropriations.

The $250.00 paid for riot duty came from state funds and is subject to Michigan income tax.

(d) Example 4. National guard technicians

National guard technicians, although paid from federal funds, are full-time civilian employees. Their civilian pay is subject to Michigan income tax. They are members of the national guard, however, and compensation paid for the 2 weeks' encampment and the monthly drills is military pay and is exempt from Michigan income tax as in example 3.

(e) Example 5. Armory board of control

Compensation for serving as a member of an armory board of control is subject to Michigan income tax.

(f) Example 6. Retirement benefits

Retirement benefits paid to retirees of the armed forces for services performed while a member of the armed forces are exempt from Michigan income tax.

(2) Employee business expenses attributable to military income shall reduce the subtraction for military income. If the expenses exceed the military income, there can be no subtraction for military income.

History: 1954 ACS 95, p. 10, Eff. Apr. 5, 1978.

R 206.11 Retirement and pension benefits.

Rule 11. (1) Retirement and pension benefits received from a retirement system of the state of Michigan or any of its local units of government, including public colleges and universities, may be deducted to the extent included in federal adjusted gross income.

(2) Retirement and pension benefits from the following sources, which shall be included in adjusted gross income, are deductible to a maximum of $7,500.00 ($10,000.00 on a joint return). The maximum deduction allowed a married couple filing separately is $10,000.00.

(a) Pension trusts and annuity plans that qualify under internal revenue code, 26 U.S.C. §401(a), including:

(i) Plans for self-employed persons, such as proprietors and partners, commonly known as Keogh or HR 10 plans.

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(ii) Individual retirement plans for persons who are not participants in a qualified plan, a Keogh plan, or a charitable annuity.

(iii) Employee annuities (tax-sheltered annuities) purchased under 26 U.S.C. §403(b) by organizations exempted by internal revenue code, 26 U.S.C. §501(c)(3) and public school systems.

(b) Plans not qualified under the internal revenue code:

(i) Plans of the United States, state governments other than Michigan, and other political subdivisions, agencies, or instrumentalities.

(ii) Plans maintained by a church or a convention or association of churches.

(iii) All other unqualified pension trusts which prescribe eligibility for retirement, and predetermine contributions and benefits.

(3) Pension or retirement benefits received by a surviving spouse may be deducted to the extent allowed, providing the benefits qualified for deduction prior to the decedent's death. Such benefits, when received by a surviving child, are not deductible.

(4) Amounts received from a plan that allows the employee to set the amount of compensation to be deferred and does not prescribe retirement age or years of service are not deductible.

(5) Premature distributions paid on separation, withdrawal, or discontinuance of a plan prior to the earliest date the recipient could have retired under the provisions of the plan are not deductible.

History: 1954 ACS 95, p. 11, Eff. Apr. 5, 1978.

R 206.12 Allocation and apportionment of income; adjustments.

Rule 12. (1) Salaries, wages, and other compensation received by a Michigan resident are allocated to Michigan. The credit provided in section 255 of Act No. 281 of the Public Acts of 1967, being §206.255 of the Michigan Compiled Laws, may be claimed if the compensation was earned in another state and taxed by that state.

(2) Salaries and wages earned in Michigan by a nonresident are allocated to Michigan. The credit for tax paid to the resident state pursuant to section 256 may be claimed by residents of states listed in the tax instruction booklet for the corresponding tax year. These states are considered reciprocal as to the nonresident tax credit.

(3) Income from a trade or business as defined in R 206.1 is allocated or apportioned to the state in which the activity takes place.

(4) Business income that is attributable to Michigan and 1 or more other states shall be apportioned as provided in sections 115 to 195 of Act No. 281 of the Public Acts of 1967, as amended, being §§206.115 to 206.195 of the Michigan Compiled Laws.

(5) Net rents and royalties from real property are allocated to the state in which the real property is located.

(6) Net rents and royalties from tangible property are allocated to Michigan, if any of the following exist:

(a) The personal property is utilized in Michigan.

(b) The rent is received by a Michigan resident, or the recipient has a commercial domicile in Michigan and is not organized under the laws of, or subject to tax by, the state in which the property was utilized.

(7) Capital gains and losses from the disposition of real property are allocated to the state in which the real property is located.

(8) Capital gains and losses from the disposition of personal property are allocated to Michigan if any of the following exist:

(a) The property was located in Michigan at the time of sale.

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(b) The taxpayer is a Michigan resident.

(c) The taxpayer has a commercial domicile in this state and is not taxable in the state in which the property had a situs.

(9) Capital gains and losses from the disposition of intangible personal property are allocated to Michigan if received by a Michigan resident.

(10) Interest, dividends, and pension and annuity income are allocated to Michigan if received by a Michigan resident.

(11) Patent and copyright royalties are allocated to Michigan if either of the following:

(a) The patent or copyright is used in Michigan.

(b) The owner is a Michigan resident or has a commercial domicile in Michigan and is not taxable in the state in which the patent or copyright was used.

(12) A patent is used in Michigan if the patented product is produced in Michigan or the patent is used in Michigan production, fabrication, manufacturing, or other processing.

(13) A copyright is used in Michigan if the printing or publication of the copyrighted item takes place in Michigan.

(14) Income includable in federal adjusted gross income not specifically allocated or apportioned by this rule is allocated to Michigan when received by a Michigan resident. Credit for tax paid to another state on income subject to tax in the other state may be claimed by the Michigan resident.

(15) The following forms of income may be claimed as a subtraction from adjusted gross income if not allocated or apportioned to Michigan; conversely, losses not allocated or apportioned to Michigan shall be added to adjusted gross income:

(a) Trade or business, including farming.

(b) Rents and royalties from real and personal property.

(c) Capital gains from the disposition of real and tangible personal property.

(d) Capital gains from the disposition of intangible personal property.

(e) Interest and dividends.

(f) Pensions and annuities.

(g) Patent and copyright royalties.

(16) Distributive share items received by a partner are allocated or apportioned as follows:

(a) Ordinary income is apportioned to Michigan by the partnership apportionment factors as provided by sections 115 to 195 of Act No. 281 of the Public Acts of 1967, as amended.

(b) Salary allocated to Michigan when received by a Michigan resident. Credit may be claimed for tax paid to another state if the salary was earned in the other state. Salary earned in Michigan by a nonresident partner is allocated to Michigan.

(c) Interest income and qualifying dividends paid to resident partners.

(d) Short-term capital gains (losses), long-term capital gains (losses), involuntary conversion gains (losses), and other gains (losses) from real or personal property that had a situs in Michigan at the time of sale are allocated to Michigan. Capital gains from the sale of intangible personal property are allocated to Michigan when received by a Michigan resident.

(e) Additional first year depreciation on property located in Michigan is allocated to Michigan.

(f) Distributive items from a partnership not allocated or apportioned to Michigan may be claimed as a deduction from adjusted gross income. Conversely, losses and deductions not allocated or apportioned to Michigan shall be added to adjusted gross income.

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(17) All distributive income from a subchapter S corporation includable in the shareholder's adjusted gross income is subject to tax if allocated or apportioned to Michigan.

(18) Dividend distributions taxable as ordinary income, plus undistributed income taxable as ordinary income, are apportioned to Michigan if all of the corporation's business activities are confined to Michigan. If the corporation is taxable both within and without Michigan, such income is apportioned to Michigan as provided in sections 115 to 195 of Act No. 281 of the Public Acts of 1967, as amended.

(19) Dividend distributions taxable as long-term capital gains and undistributed long-term capital gains are allocated as follows:

(a) Capital gains from the disposition of real property are allocated to Michigan if the property is located in Michigan.

(b) Capital gains from the disposition of tangible personal property are allocated to Michigan if the property has a situs in Michigan at the time of sale.

(c) Capital gains from the sale of intangible personal property are allocated to Michigan when received by a Michigan resident.

(20) Distributive income from a subchapter S corporation not allocated or apportioned to Michigan may be claimed as a subtraction from adjusted gross income. Conversely, losses not allocated or apportioned to Michigan shall be added to adjusted gross income.

History: 1954 ACS 95, p. 11, Eff. Apr. 5, 1978.

R 206.13 Personal and dependent's exemption allowance; proration for nonresident or part-year resident; death of taxpayer.

Rule 13. (1) A nonresident or part-year resident is allowed that portion of the personal and dependent's exemption allowance that the taxpayer's income from Michigan sources bears to total income from all sources. Total income for this proration is federal adjusted gross income plus the deduction allowed under internal revenue code, 26 U.S.C. §1202, excluding sick pay and foreign source income.

(2) A person who is permanently leaving Michigan and is filing a final federal return covering less than 12 months shall file a Michigan return covering the same period and prorate the exemption allowance on the basis of months in Michigan during the calendar year to 12 months.

(3) A proration of the exemption allowance is not required because of the death of the taxpayer during the tax year.

History: 1954 ACS 95, p. 13, Eff. Apr. 5, 1978.

R 206.14 Moving expenses.

Rule 14. Persons moving into or out of the state of Michigan shall allocate all adjustments to gross income resulting from the move to the state of destination as shown in the following examples:

(a) Example 1. Wage earner moves to Michigan.

Michigan wages	$ 6,000.00	Reported on MI-1040 as follows:	
Nonresident wages	4,000.00	Federal adjusted gross income	$ 8,500.00
Total	10,000.00	Income attributable to another state	4,000.00
Moving expenses	(1,500.00)	Income subject to Michigan tax	$ 4,500.00
Adjusted gross income	$ 8,500.00		

Note: The Michigan income is reduced by the moving expenses.

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(b) Example 2. Taxpayer moves to Michigan and his reimbursed expenses exceeded the amount that could be deducted on his federal return.

Michigan wages	$12,000.00	Reported on MI-1040 as follows:	
Nonresident wages	8,000.00	Federal adjusted gross income	$20,500.00
Total	$20,000.00	Income attributable to another state	8,000.00
Reimbursed moving expenses	3,000.00	Income subject to Michigan tax	$12,500.00
Not allowable moving expenses	2,500.00		
Difference	500.00		
Federal adjusted gross income	$20,500.00		

Note: Reimbursed moving expenses include reimbursement for the cost of selling a house in former state, as this is a separate transaction not included in the computation of the gain from the sale of the residence.

Note: Taxpayer's excess reimbursed moving expense is taxable in Michigan.

(c) Example 3. Wage earner moves from Michigan to another state.

Michigan income	$ 6,000.00	Reported on MI-1040 as follows:	
Nonresident income	4,000.00	Federal adjusted gross income	$ 8,500.00
Total	10,000.00	Income attributable to another state	2,500.00
Allowable moving expenses	1,500.00	Income subject to Michigan tax	$ 6,000.00
Federal adjusted gross income	$ 8,500.00		

Note: Taxpayer's subtraction of income attributable to state of destination is reduced by the moving expense.

(d) Example 4. Taxpayer moving out of Michigan whose reimbursed moving expenses exceeded the amount that could be deducted on his federal return.

Michigan wages	$12,000.00	Reported on MI-1040 as follows:	
Nonresident wages	8,000.00	Federal adjusted gross income	$20,500.00
Total	20,000.00	Income attributable to another state	8,500.00
Reimbursed moving expenses	3,000.00	Income subject to Michigan tax	$12,000.00
Allowable moving expenses	2,500.00		
Difference	500.00		
Federal adjusted gross income	$20,500.00		

Note: Taxpayer's subtraction of income attributable to state of destination includes the excess reimbursed moving expense.

History: 1954 ACS 95, p. 13, Eff. Apr. 5, 1978.

R 206.15 Credit for income tax withheld from compensation.

Rule 15. (1) The income tax deducted and withheld from compensation under chapter 7 of Act No. 281 of the Public Acts of 1967, as amended, is allowed as a credit against the income tax of the person from whose wages the tax was

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withheld. Credit shall be given to the employee even though such tax has not been paid to the department by the employer.

(a) Example 1. An employee received compensation of $15,000.00 from his employer for the year. The employer withheld tax of $500.00 from the employee and furnished him with a W-2 wage and tax statement showing $500.00 withheld. The department shall give the employee credit for tax withheld of $500.00.

(b) Example 2. The employer paid his employees by check and withheld tax from each payment of wages. Each check contained a stub which itemized all deductions. One of the deductions was headed "Michigan Tax." The employees did not have W-2 wage and tax statements to attach to their individual income tax returns because the employer did not give the employees the statements. The employees shall receive credit against the tax established by their individual income tax returns for all tax they can prove was withheld. A copy of each check stub shall be accepted as evidence of the tax withheld unless the department can prove otherwise. If the employee cannot support his claim for tax withheld by W-2 wage and tax statements or check stubs, he shall file an employee complaint form with his income tax return.

(2) If a taxpayer files individual income tax returns on any basis other than a calendar year basis, the tax deducted and withheld during any calendar year is allowed as a credit against the income tax of the person from whose wages the tax was withheld for the taxable year which begins in such calendar year. If the person from whose wages the tax was withheld has more than 1 taxable year beginning in that calendar year, the credit shall be allowed against the tax for the last taxable year beginning in such calendar year.

(a) Example 1. A man and his wife own a business and file their individual income tax return, MI-1040, on a fiscal year basis ending June 30th. They made 4 estimated payments totaling $700.00 toward their tax liability for their year ending June 30, 1976. The husband also worked for another business and the employer withheld $325.00 tax from his compensation for calendar year 1975. The tax liability of the husband and wife established by the MI-1040 for fiscal year ending June 30, 1976, was $1,100.00. The taxpayer should take credit for the $700.00 estimated payments made for the fiscal year ending June 30, 1976, plus the $325.00 tax the husband's employer withheld during calendar year 1975. They must pay $75.00 with the MI-1040 when they file.

(b) Example 2. The situation in this example is the same as in example 1 except the husband worked from January 15, 1976, to May 31, 1976, for the employer but did not work for him during calendar year 1975.

The husband and wife cannot claim the $325.00 tax the employer withheld from the husband's compensation in 1976 on their MI-1040 for fiscal year ending June 30, 1976, and must pay $400.00 at the time they file their annual return, MI-1040. They must take credit for the $325.00 tax withheld in 1976 on their MI-1040 for the year ending June 30, 1977.

(c) Example 3. After filing his 1976 tax return on a calendar year basis, a taxpayer decides to change his filing to a fiscal year basis using the fiscal period of July 1 to June 30. He must file a return for the period of January 1, 1977, to June 30, 1977, and pay the tax. He shall not receive credit for the tax withheld during that period. When filing his full year return for the fiscal period July 1, 1977, to June 30, 1978, he shall report his income for the last 6 months of 1977 and the first 6 months of 1978 and shall receive credit for the full amount of tax withheld during calendar year 1977. The 1977 W-2 wage and tax statement shall be attached to the return.

History: 1954 ACS 95, p. 14, Eff. Apr. 5, 1978.

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R 206.16 Credit allowed resident for income tax paid to other states.

Rule 16. (1) A resident taxpayer is allowed a credit for tax imposed on income which is also subject to tax by another state of the United States, or political subdivision thereof, or the District of Columbia. This credit is limited to the smaller of (a) the Michigan tax on such income or (b) the tax imposed by the other state. The credit is that portion of the Michigan income tax that the income which is subject to tax in both states bears to total taxable income. Example:

Michigan wages	$ 8,000.00
Wages earned in another state	2,000.00
United States government bond interest	1,000.00
Adjusted gross income	11,000.00
United States government bond interest	1,000.00
Total taxable income	$10,000.00
Income subject to tax in both states $2,000.00 or 20%	
Taxpayer has 2 exemptions	
2 x $1,500.00	3,000.00
Taxable balance	7,000.00
Tax @ 4.6%	322.00
Tax paid to other state; $70.00	
Maximum credit allowed 20% of $322.00	$ 64.40

In this example, the taxpayer cannot claim the full $70.00 paid to another state as his credit is limited to 20% of $322.00 or $64.40. The credit cannot exceed the amount paid to another state.

(2) Since Michigan allows a subtraction of income attributable to other states the credit is ordinarily limited to tax imposed on compensation received for services rendered in another state.

History: 1954 ACS 95, p. 15, Eff. Apr. 5, 1978.

R 206.17 City income tax credit.

Rule 17. (1) Each person subject to tax under this act may claim a credit for a portion of the income taxes levied by cities in Michigan which are deductible if that person had not elected the standard deduction. For purposes of computations of this credit, city income taxes do not include penalties or interest paid.

(2) The amount of city income taxes used as a basis for computation of this credit shall be the city income tax paid by the taxpayer in the tax year. The tax paid shall be reduced by any refund of overpaid taxes of a prior year.

(3) If a person is assessed and pays additional city income taxes applicable to prior years, the additional taxes paid shall be added to the city income tax of the year in which they are paid for purposes of computation of this credit.

(4) A credit shall not be allowed unless the credit is claimed on a tax return filed within 6 months after the end of the year for which the credit is claimed or within the period of an authorized extension for filing.

The credit shall be computed as follows:

If the total city income tax is:	The credit shall be:
Not over $100.00	20% of the city income taxes
Over $100.00; not over $150.00	$20.00 + 10% of the excess over $100.00
Over $150.00; not over $200.00	$25.00 + 5% of the excess over $150.00
Over $200.00	$27.50 + 5% of the excess over $200.00
	The total credit shall not exceed $10,000.00.

History: 1954 ACS 95, p. 15, Eff. Apr. 5, 1978.

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R 206.18 Charitable contribution tax credit.

Rule 18. (1) Each taxpayer shall be allowed a credit against his tax liability for a portion of the charitable contributions made during the year to public libraries and institutions of higher learning located within this state and to the Michigan colleges foundation.

(2) For the tax years 1974 to 1979, credit shall also be allowed to a nonprofit corporation, fund, foundation, trust, or association which is organized and operated exclusively for the benefit of institutions of higher learning located within this state. To qualify for credit, each recipient organization shall be controlled, or approved and reviewed, by the governing boards of the institutions benefiting from the charitable contributions. Copies of the independently audited annual financial statements of the recipient organization shall be provided to the Michigan auditor general and to the chairmen of the senate and house appropriations committees.

(3) The charitable contribution credit shall equal 50% of the contribution except:

(a) In the case of a taxpayer other than a resident estate or trust, the amount allowable as a credit under this rule for any taxable year shall not exceed 20% of the taxpayer's tax liability for such year as determined before any tax credits or $100.00, or in the case of a husband and wife filing a joint return, $200.00, whichever is less.

(b) In the case of a resident estate or trust, the amount allowable as a credit under this section for any taxable year shall not exceed 10% of the tax liability for such year as determined before any tax credits or $5,000.00, whichever is less.

(4) "Institution of higher learning" means an educational institution which is recognized by the state board of education as an institution of higher learning and appears as such in the annual publication of the department of education entitled "The Directory of Institutions of Higher Education."

(5) "Public library" means a library established for free public purposes by a governmental entity and does not include a special library organized by a professional or technical group or a school.

History: 1954 ACS 95, p. 16, Eff. Apr. 5, 1978.

R 206.19 Adjustment of pre-tax gains or losses.

Rule 19. (1) A taxpayer, whose federal adjusted gross income includes gains and losses realized in the tax year from the disposition of property acquired prior to October 1, 1967, which are described in and subject to the provisions of subchapter P of the internal revenue code, 26 U.S.C. §1201 et seq., may reduce taxable income by the portion of gain or loss attributable to the period before October 1, 1967. When this election is made, it shall include all items of gain or loss realized during the taxable year.

(2) To compute this adjustment a fraction is applied to the gain. The denominator is the total months held and the numerator is the number of months held after October 1, 1967. In making this calculation, property acquired or disposed of from the first to the fifteenth of the month shall be counted from the first of the month and property acquired or disposed of after the fifteenth of the month shall be counted from the last day of the month.

(3) Losses resulting from the application of this rule shall not be carried forward.

History: 1954 ACS 95, p. 16, Eff. Apr. 5, 1978.

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R 206.20 Withholding generally.

Rule 20. (1) Every employer, over whom Michigan has jurisdiction, required to withhold federal income tax from compensation paid an employee, shall also withhold Michigan income tax from (a) compensation paid to the employee if the employee is a resident of Michigan, and (b) from that portion of the compensation earned in Michigan if the employee is not a resident of Michigan, unless (i) the compensation is paid to an employee from whom the employer is prohibited from withholding Michigan income tax because of a federal law, or (ii) the employer is not required to withhold Michigan income tax because of a reciprocal agreement between Michigan and another state or between Michigan and another city. (See employer's tax guide.)

(2) Churches, schools, governmental agencies, and nonprofit organizations exempt from income tax shall withhold Michigan income tax from compensation paid employees the same as any other employer.

(a) Example 1. A church has a full-time secretary and withholds federal income tax from her compensation. The church shall also withhold Michigan income tax from her compensation.

(b) Example 2. A machine shop is located in Michigan close to the Indiana state line. It employs residents of both Michigan and Indiana and is required to withhold federal income tax from all employees. The firm shall withhold Michigan income tax from Michigan residents, but will not be required to withhold Michigan income tax from residents of Indiana who provide the employer with a certificate of nonresidency. Michigan and Indiana have a reciprocal agreement.

(c) Example 3. A contractor from Pennsylvania builds a shopping center in Michigan. He employs residents of Michigan from the local labor force and brings 2 of his permanent employees from Pennsylvania to Michigan for 3 months to supervise the construction. The contractor shall register and withhold Michigan income tax from the compensation paid to all employees engaged in the project including the compensation paid to the 2 residents of Pennsylvania for the compensation paid for the work performed in Michigan. This contractor has the same obligation to withhold the Michigan tax as a Michigan contractor who performs all of his business in Michigan.

History: 1954 ACS 95, p. 17, Eff. Apr. 5, 1978.

R 206.21 Failure to withhold; withholding less than correct amount; liability of employer.

Rule 21. (1) If an employer erroneously fails to withhold Michigan income tax from compensation paid to an employee, or withholds less than the correct amount, he is liable for payment of the amount which should have been withheld, whether or not it is collected from the employee by the employer. The employer should correct the error within the same calendar year, if possible, by deducting the difference between the amount withheld and the amount required to be withheld from any compensation still owed the employee.

(2) If the failure to withhold is in a year other than the current year, the employer is still liable for the amount that should have been withheld and shall pay it to the department. Any reimbursement by the employee to the employer is a matter between the employer and the employee.

(3) If the employer fails to withhold the tax as required and, thereafter, the income tax against which the tax may be credited is paid, the tax required to be deducted and withheld shall not be collected from the employer. Such payment

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does not, however, operate to relieve the employer from liability for penalties and interest on the tax that should have been withheld.

(a) Example 1. An individual started a business on March 1 of the current year. He was an employer and the people on his payroll were employees subject to collection of federal income tax at source on wages under chapter 24 of the internal revenue code, 26 U.S.C. §4101 et seq. The employer did not register and start withholding Michigan income tax until August 1. The employer is liable for withholding the correct tax from the compensation he pays his employees. He should compute the tax he should have withheld from each employee from March 1 to August 1 and withhold this from each employee during the remainder of the year in addition to the correct tax that must be withheld from each payment of compensation. This is according to subrule (1) above.

(b) Example 2. An employer was withholding federal income tax from wages, but was not withholding Michigan income tax. The department made an audit in June, 1976, and determined the following:

	1973		1974	
Employee	Wages paid	Should have withheld	Wages paid	Should have withheld
No. 1	$15,255.00	$328.00	$15,425.00	$438.00
No. 2	$12,000.00	300.00	$13,000.00	416.00
Tax due		$628.00		$854.00

	1975		1976	
Employee	Wages paid	Should have withheld	Wages paid	Should have withheld
No. 1	$16,000.00	$450.00	$8,000.00	$225.00
No. 2	$14,000.00	448.00	$7,000.00	224.00
Tax due		$898.00		$449.00

The department assessed tax of $2,829.00 plus penalty and interest against the employer. Subsequently, the employer obtained signed employee wage statements from the employees and sent them to the department.

Employee no. 2 claimed he filed MI-1040 returns for the years 1973, 1974, and 1975. The department checked its records and found returns for all 3 years and that the employee did pay the tax on his own MI-1040.

Since the assessment had not been paid, the department reduced the assessment by $1,164.00, which is the tax in the audit for the years 1973, 1974, and 1975. If the assessment had been paid, the department would have issued a refund to the employer. This is according to subrule (3) above. Employee no. 1 also gave his employer signed employee wage statements claiming he filed MI-1040 returns and paid his own tax on the wages he received from the employer. The department checked its records and could not find a return for 1973. They found a joint return for 1974, but the adjusted gross income on the return was $12,000.00. This was compensation the wife received as a schoolteacher. It agreed with the compensation shown on the W-2 issued by the school district. The department also found a joint return for 1975 and the employee and his wife reported the compensation from both their employers. The department reduced the assessment against the employer by $450.00 for the tax included in the audit for 1975 since the employee paid the tax on this compensation on his own MI-1040. This is according to subrule (3) above.

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The department cannot give the employer relief for the tax he should have withheld from employee no. 1 in 1973 and 1974 since the employee did not report on any MI-1040 the compensation he received from the employer.

Employee no. 1 is delinquent for the year 1973 and filed a false MI-1040 for 1974. The department will give the employee credit as tax withheld of $328.00 in 1973 and $438.00 in 1974 at the time it confronts him about his individual income tax returns. The employer shall look to the employee if he wishes to get reimbursed for these 2 amounts. This is a matter between the employer and the employee. See subrule (2) above.

The employer may recover the $449.00 tax he did not withhold in 1976 by deducting it from future compensation paid the employee during the remainder of the year according to subrule (1). The employees shall be given credit for these amounts on their 1976 W-2 plus any additional tax to be deducted for the remainder of 1976.

History: 1954 ACS 95, p. 17, Eff. Apr. 5, 1978.

R 206.22 Overwithholding or withholding in error.

Rule 22. (1) If an employer overwithholds income tax from an employee's wages, or if he withholds Michigan tax where he should not have withheld Michigan tax, he may repay the amount withheld in error to the employee at any time within the same calendar year. He shall obtain a receipt from the employee for the amount refunded and keep it as a part of his own records. The employer may adjust his records internally and deduct the amount refunded from the tax owing on his next return or he may ask for a cash refund.

(2) The fact that an employer is withholding more on 1 basis than he would if he were using another method, for example, the wage bracket method as compared to the percentage method, does not mean that there has been an overcollection. The employer may choose whichever method he prefers and if his computation is correct according to the method selected, there is no overcollection. Similarly, if an employee does not file an exemption certificate so that more is withheld than would have been if he had claimed his exemptions, there is no overcollection on that account and no repayments to him by the employer would be authorized.

(3) If the employer does not repay the employee for the overcollection, the employee's remedy lies in claiming credit for the amount withheld on an individual income tax return.

(a) Example 1. An employee was a resident of Michigan and lived and worked in Michigan through June of the current year. On July 1, his employer reassigned the employee to New York state. The employee moved to and became a legal resident of New York state on July 1.

The employer correctly withheld $600.00 Michigan tax from January through June, but erroneously withheld another $200.00 Michigan tax instead of New York tax during July and August and paid Michigan $800.00 tax which was withheld from this 1 employee.

The employer should refund $200.00 to the employee and obtain a receipt for his records. The employer may either reduce his next Michigan return by $200.00 or ask for a refund. The W-2 shall show $600.00 Michigan tax withheld.

(b) Example 2. A coding error resulted in Michigan tax being withheld from an employee who is a resident of Minnesota. The employee never lived or worked in Michigan. The employee found the error when he received his W-2. If the employer can recover the W-2 and issue a corrected W-2 showing no Michigan tax withheld, he may refund the tax to the employee, obtain a receipt, and either

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deduct it from the amount withheld the following month or ask the department for a refund. If the employer cannot recover the W-2 from the employee, the employee shall obtain relief by filing a Michigan individual income tax return.

History: 1954 ACS 95, p. 18, Eff. Apr. 5, 1978.

R 206.23 Withholding tax returns.

Rule 23. The income tax withheld from compensation paid to employees is a personal obligation of the employer (taxpayer) and is due and payable on or before the fifteenth day of the month next succeeding the month in which the tax was withheld. The commissioner of revenue may require filing of returns on other than a monthly basis. The taxpayer shall make out a tax return for the preceding month on the form required by the department, showing the amount of the tax for which he is liable and mail the return, together with a remittance for the amount of the tax, payable to the state of Michigan, to the address as indicated on the return, on or before the fifteenth day of the month. The return shall be signed by the taxpayer or the duly authorized agent of the taxpayer.

History: 1954 ACS 95, p. 19, Eff. Apr. 5, 1978.

R 206.24 Withholding exemption certificate.

Rule 24. (1) Every employee shall file a signed employee's Michigan withholding exemption certificate, form MI-W4, with his or her employer. The number of personal and dependency exemptions claimed on the MI-W4 shall not exceed the number of personal and dependency exemptions the employee is entitled to claim on his or her individual income tax return. If married, and the employee and his or her spouse are both employed, they shall not claim the same personal and dependency exemptions with their employers at the same time. If a person is unmarried and holds more than 1 job, the person shall not claim the same exemption with more than 1 employer at the same time.

(2) An employee may claim exemption from Michigan income tax withholding, which shall be renewed annually, if all of the following conditions exist:

(a) He claimed exemption from federal income tax withholding.

(b) He did not incur a Michigan income tax liability for the previous year.

(c) He does not anticipate a Michigan income tax liability for the current year because his employment is less than full time, intermittent, or temporary, and his personal and dependency exemptions will exceed his annual compensation.

(3) An employee shall file a new certificate within 10 days if the number of exemptions previously claimed decreases because:

(a) The spouse for whom the employee has been claiming exemption is divorced or legally separated, or claims her or his own exemption on a separate certificate.

(b) The employee finds that a dependent claimed as an exemption on the certificate must be dropped for federal purposes.

(4) The death of a spouse or a dependent does not affect the employee's withholding until the following year.

(5) If an employee fails or refuses to furnish an exemption certificate, the employer shall withhold tax from the employee's total compensation without allowance for any exemptions.

History: 1954 ACS 95, p. 19, Eff. Apr. 5, 1978.

R 206.25 "Homestead" defined.

Rule 25. (1) "Homestead" means a dwelling, or a unit in a multiple unit dwelling, which is subject to property tax or a service charge in lieu of taxes

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pursuant to section 15a of Act No. 346 of the Public Acts of 1968, and is occupied as a home by the owner or renter. Real property classified as agricultural land for property tax purposes is part of a person's homestead under any of the following conditions:

(a) If the gross receipts from the taxpayer's agricultural or horticultural operations are greater than his household income, all taxes on farmland may be claimed for credit.

(b) If gross receipts from the taxpayer's agricultural or horticultural operations are less than his household income, the credit for property taxes is limited to the property taxes on land that he has lived on for 10 years or more and which is adjacent or contiguous to his home.

(c) If the taxpayer has not lived on the land for 10 years and the gross receipts from agricultural or horticultural operations do not exceed the taxpayer's household income, only the taxes on the home and 5 acres of land may be claimed for credit.

(2) The taxes on a homestead, which is an integral part of a larger unit of assessment, shall be the proportion of the total property tax that the value of the homestead is to the total value of the assessed property.

(a) Example 1. The taxpayer is an insurance agent and is using the first floor of his 2-story house as a business office. He and his wife live on the second floor. Assuming the value of the real property used for business is equal to the value of the real property used as a home, the taxpayer may claim for credit one-half of the property taxes.

(b) Example 2. The taxpayer has converted the second floor of his home to an apartment which he rents for $175.00 per month. To determine the property taxes applicable to the apartment, the annual rent of $2,100.00 (12 x $175.00 = $2,100.00) is multiplied by 17%. This amounts to $357.00 which is subtracted from the total property taxes assessed to arrive at the homestead property tax the taxpayer may claim for credit.

This example is used when the homestead is a part of a larger unit of assessment and that portion of the assessed property not used as a homestead by the taxpayer is rented or leased to another person who occupies it as his home.

(3) A mobile home or trailer coach in a trailer park is a homestead. See R 206.28 for the property taxes that may be claimed for credit by persons residing in a mobile home in a trailer park.

(4) A nursing home or foster care home or home for the aged is the homestead of a permanent resident. A homestead maintained elsewhere by the spouse is considered a part of the same homestead.

(5) A single person who is a permanent resident of a nursing home, foster care home, or home for the aged and also owns the house he formerly occupied may claim for credit either the taxes on the house or his share of the taxes paid by nursing home, foster care home, or home for the aged, but not both.

(6) See R 206.28 for the property taxes that may be claimed for credit by a person residing in a nursing home, foster care home, or home for the aged.

History: 1954 ACS 95, p. 20, Eff. Apr. 5, 1978.

R 206.26 Property taxes claimable for homestead property tax credit; sale of property; apportionment of taxes; computation of credit.

Rule 26. (1) Property taxes which may be claimed for a property tax credit are:

(a) Taxes based on the state equalized value of the homestead, including collection fees. Special assessments based on state equalized value may also be claimed.

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(b) The property must be located in Michigan and be the principal residence of the claimant.

(c) The taxes shall be the taxes billed for the year the credit is claimed. For example, a property tax credit claimed for 1976 shall be based on taxes billed to the owner for 1976, usually in July and December.

(2) If the property is sold during the year, the taxes shall be apportioned between the buyer and seller according to the number of days in the calendar year that each occupied the house.

(a) Example 1. The taxpayer sold his home in April, 1976, which he occupied until May 31, 1976. The property taxes for 1976 amounted to $600.00 (summer taxes $200.00, winter taxes $400.00) billed to the new owner in July and December of 1976. On August 1, 1976, he purchased a new home which he first occupied on October 1, 1976. The 1976 taxes on the new home totaled $800.00 (summer taxes $300.00, winter taxes $500.00). The taxes that may be claimed for credit are computed as follows:

Computation Steps	Homestead Sold	Homestead Bought	
1. Number of days occupied	152	92	
2. Divide line 1 by 366 days	41.5%	25.1%	
3. 1976 property taxes	$600.00	$800.00	
4. Prorated taxes line 3 x line 2	$249.00	$200.80	
5. Total taxes for credit			$449.80

The taxpayer rented a home for the period June 1 to September 30, 1976, and may also claim the 17% of tax in rent.

History: 1954 ACS 95, p. 20, Eff. Apr. 5, 1978.

R 206.27 Homestead property tax credit; "owner" defined.

Rule 27. (1) The term "owner," for the purpose of claiming a homestead property tax credit, means a natural person who owns his home or is:

(a) Purchasing a homestead under a mortgage or land contract.

(b) Purchasing a dwelling on leased land.

(c) A tenant stockholder of a cooperative housing corporation.

(d) Holding a life lease in a homestead previously sold.

(e) The sole occupant of a homestead in which he is a joint owner.

(2) Claimants not related as husband and wife, who jointly own and occupy the same dwelling, shall file separate claims on their prorated share of the taxes.

History: 1954 ACS 95, p. 21, Eff. Apr. 5, 1978.

R 206.28 Homestead property tax credit; renter.

Rule 28. (1) A person renting a homestead that is subject to a property tax is entitled to a homestead property tax credit similar to the credit allowed the homeowner.

(2) The renter, in his computation of the credit, shall use 17% of gross rent for taxes on his homestead.

(3) Gross rent is the contracted rental amount the renter or lessee pays to the landlord. If the department has reason to believe that the amount charged is excessive, the department may adjust the rent to fair market value for purposes of computing the credit.

(4) Persons living in a mobile home park may claim credit on the $3.00 per month specific tax and 17% of the remaining charges as rent.

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(a) Example 1. Monthly charges for the lot are $65.00, including the $3.00 per month specific tax. Rent paid for the entire year, $62.00 x 12 = $744.00.

Property tax in rent, 17% x $744.00	$126.48
Specific tax at $3.00 per month	36.00
Homestead property taxes for credit computation	$162.48

(5) A person renting a homestead which is subject to a service fee as provided by section 15a of Act No. 346 of the Public Acts of 1966, being §125.1415a of the Michigan Compiled Laws, in lieu of an ad valorem property tax, shall base his property tax credit on the service fee included in the rent he pays. He does not use 17% of rent paid. For example, John Doe rents a home for $160.00 per month or $1,920.00 per year. The home is tax exempt but a service fee of 7% of rent is paid to the city by the owner. In the computation of the credit, John Doe uses 7% of $1,920.00 or $134.40 for property taxes. The service fees can vary from 1% to 10% of the rent paid depending on the city and type of housing. Therefore, occupants of service fee housing should ask their management agent for the percentage that applies to their homestead.

(6) Persons residing permanently in homes for the aged, nursing homes, or foster care homes that issue a lump sum billing for rent, food, nursing, and other services shall use their allocated share of the property taxes levied on the facility in the computation of their credit. For example, Mary Doe is a permanent resident of a nursing home licensed by the department of public health as a 40-bed facility which was assessed property taxes of $4,840.00 for the tax year. Mary Doe's allocated share of the taxes is $121.00 ($4,840.00 ÷ 40 = $121.00). The number of occupants designated by the license or permit issued by the department of public health or department of social services shall be used in the allocation of the taxes.

(7) Other renters of homesteads that have their meals furnished by the landlord and receive a lump sum billing shall compute their credit on the property taxes levied on the homestead. If the homestead is located in a multi-dwelling complex, the property taxes on the entire complex are allocated to each apartment in the complex. The allocation is to be based on the square feet of each apartment to the total square feet of all apartments. For example, Mr. and Mrs. Doe rent a 600-square-foot apartment in a 100-unit apartment complex. They are billed $750.00 per month for rent and meals. The rent is not stated separately. The total square feet of all of the apartments is 62,000. The taxes on the complex, including carports, swimming pool, and common laundering facilities, amounted to $54,000.00. The taxes that Mr. and Mrs. Doe may claim for credit are $523.80 (600 ÷ 62,000 = 0.97% x $54,000 = $523.80).

(8) This rule to become effective for the tax year starting January 1, 1978.

History: 1954 ACS 95, p. 21, Eff. Apr. 5, 1978.

R 206.29 Homestead property tax credit; separation or divorce of claimants.

Rule 29. (1) For the period prior to separation or divorce, the taxes or rent paid shall be prorated on the basis of each spouse's income to total income for the period. However, if 1 spouse's income does not equal ½ the taxes or tax in rent for the period, the other spouse may claim all of the taxes or tax in rent for that period. In the example in subrule (5) Alice is not entitled to claim part of the property taxes during the period they lived together because for that period she did not have income equal to ½ of the taxes.

(2) During the period of separation or divorce, the occupant of the homestead is entitled to the credit.

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(3) If 1 of the parties to a separation or divorce is required to continue the house payments and taxes or the rent on the dwelling occupied by the other, the occupant shall include these payments in his or her household income.

(4) Household income is that income received during the period the claimant is entitled to claim property taxes or tax in rent.

(5) Example 1. Bob and Alice Jones separated June 1 and were divorced November 3. They owned a home on which the taxes for the year were $900.00. Alice continued to occupy the home and received title to the property upon their divorce. Bob moved into an apartment June 1 and paid $225.00 per month rent for the balance of the year. Bob's income for the year was $15,000.00 and, at the time they separated, he was ordered to pay Alice $200.00 per month plus the payments on the house ($240.00 per month, including taxes and insurance). The divorce decree called for alimony to Alice of $200.00 per month. Alice earned $30.00 per month on a part-time job through July but quit to go to work full time on August 1 for a salary of $500.00 per month. Their homestead property tax credits are computed as follows:

Alice	
Wages:	
Part-time June 1-July 31	$ 60.00
Full-time Aug. 1-Dec. 31	2,500.00
Alimony and separate maintenance	
7 months @ $200.00	1,400.00
5 months @ $240.00	1,200.00
Total household income June 1-Dec. 31	5,160.00
Property taxes	
Jan. 1-May 31	—0—
June 1-Dec. 31 ⅞ x $900.00 =	525.00
Total taxes	
Amount not refundable 3½% of $5,160.00	180.60
Balance	344.40
Property tax credit (60%)	$ 206.64
Bob	
Wages: Jan. 1-Dec. 31	$15,000.00
Total household income	15,000.00
Property taxes	
Jan. 1-May 31 ⅝ x $900.00 =	375.00
Tax in rent	
7 x $2,225.00 x 17% =	267.75
Total taxes	
Amount not refundable 3½% of $15,000.00	525.00
Balance	117.75
Property tax credit (60%)	$ 70.65

History: 1954 ACS 95, p. 22, Eff. Apr. 5, 1978.

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R 206.30 Homestead property tax credit; part-year resident.

Rule 30. A person who moved into or out of the state during the tax year and was a resident for at least 6 months may compute a property tax credit on his or her Michigan household income. For purposes of computing the credit, the taxes on the Michigan home bought or sold shall be reduced to the ratio of days occupied to total days in the tax year.

(a) Example 1. Mr. Jones came to Michigan on May 1, purchased a home, and moved into it with his family on June 1. The taxes on the home for the full year were $720.00. Mr. Jones received the following income:

Source of Income	Total	Michigan	Other States
Wages	$13,400.00	$ 8,400.00	$5,000.00
Moving reimbursement	3,000.00	3,000.00	
Total	16,400.00	11,400.00	5,000.00
Moving expense	2,700.00	2,700.00	—0—
Federal adjusted gross income	$13,700.00	$ 8,700.00	$5,000.00

The homestead property tax credit is computed as follows:

Household income	$8,700.00
Property tax $^{21}/_{365}$ = 59% x $720.00	424.80
Amount not refundable 3.5% of $8,700.00	304.50
Balance	120.30
Credit 60%	$ 72.18

History: 1954 ACS 95, p. 23, Eff. Apr. 5, 1978.

R 206.31 Homestead property tax credit; death of taxpayer.

Rule 31. The 6-month residency rule does not apply to deceased taxpayers. The taxes on which a credit may be based are those taxes billed to, and paid by, the claimant for the current tax year. For renters, the tax is 17% of the rent paid up to the date of death.

History: 1954 ACS 95, p. 23, Eff. Apr. 5, 1978.

R 206.32 Veteran's homestead property tax credit.

Rule 32. (1) The credit allowed servicemen, veterans, or their widows under the requirements of section 506 of Act No. 281 of the Public Acts of 1967, being §206.506 of the Michigan Compiled Laws, shall be known as a veteran's homestead property tax credit.

(2) A person eligible for the veteran's credit may file a claim for the year in which he first became eligible and all years thereafter for which he remains eligible, including the year in which his eligibility is terminated. Eligible claimants of a veteran's homestead property tax credit who buy or sell and rent a home during the tax year shall compute their credit as shown in the following example:

John Brown is an eligible veteran with a 30% service-connected disability which entitles him to a state equalized value allowance of $3,500.00. He sold his home in March and moved out on April 30. Its state equalized value was $10,500.00. The taxes for the entire year amounted to $546.00. He rented a home for the next 5 months for $275.00 per month. He purchased a new home which he moved into on October 1. The state equalized value is $15,000.00. Taxes of $780.00 were assessed for the entire year. Mr. and Mrs. John Brown's household income for the tax year amounted to $12,000.00.

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Credit computation—

	Homestead Bought Col. A	Homestead Sold Col. B	Homestead Rented Col. C
37. Number of days occupied	120	92	153
38. Divide line 37 by 365 days	32.9%	25.2%	41.9%
39. Property taxes for calendar year	$ 546.00	$ 780.00	
40. Prorated taxes (multiply line 39 by line 38)	179.63	196.56	
41. State equalized value allowance	3,500.00	3,500.00	
42. State equalized value	10,500.00	15,000.00	
43. Divide line 41 by line 42	33.3%	23.3%	
44. Multiply line 40 by line 43	59.82	45.80	
45. Property tax credit on homes purchased and sold, add columns A and B of line 44. If you rented a home for part of the year, complete lines 46 through 50			$ 105.62
46. Rent paid			1,375.00
47. Multiply line 46 by 17%			233.75
48. Household income	12,000.00		
49. Multiply line 48 by line 38, Col. C	5,028.00		
50. Multiply line 49 by 3.5%			175.98
51. Subtract line 50 from line 47			57.77
52. Multiply line 51 by 60%			34.66
53. Homestead property tax credit, add lines 45 and 52			$ 140.28

Note: Veterans renting a homestead subject to a service fee in lieu of property taxes should enter their share of the service fee on line 47 instead of 17% of rent paid. See your management agent for your share of the service fee.

History: 1954 ACS 95, p. 23, Eff. Apr. 5, 1978.

R 206.33 Income tax return preparers.

Rule 33. (1) An income tax return preparer shall furnish a completed copy of any return or refund claim he prepares to the taxpayer before or at the time he presents it to him for signing.

(2) The preparer shall retain a completed copy of the return or refund claim, or retain on a list the name, taxpayer's social security number and taxable year of the taxpayer for whom such return or claim for refund was prepared.

(3) The preparer shall make such copy or list available for inspection upon request by the commissioner of revenue or his representative. The return copy or list shall be retained for the 3-year period following the close of the return period during which such return or claim for refund was presented to the taxpayer for filing. However, in the case of a return which becomes due during a return period (including extensions, if any) following the return period during which the return was presented to the taxpayer for filing, then such materials as described in this paragraph shall be retained and kept available for inspection upon request for the 3-year period following the close of such later return period in which the return became due. For the definition of "return period" see the internal revenue code, 26 U.S.C. §6060(c).

(4) For the purpose of this rule, the term "income tax return preparer" means any person who prepares for compensation, or who employs 1 or more persons to prepare for compensation, any return of tax imposed by Act No. 281 of the Public Acts of 1967, or any claim for refund under the same act. For the purpose of the

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preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(5) In the case of an employment between 2 or more income tax return preparers, the person who employs 1 or more other preparers to prepare for compensation any claim for refund other than for such person (and not the other preparer) shall be considered to be the income tax return preparer.

(6) In the case of a partnership arrangement for the preparation of returns and claims, the partnership shall be considered to be the income tax return preparer.

History: 1954 ACS 95, p. 24, Eff. Apr. 5, 1978.

COLLECTIONS DIVISION

MOTOR FUEL TAX

(By authority conferred on the department of treasury by section 3 of Act No. 122 of the Public Acts of 1941, as amended, and sections 17, 32, and 62 of Act No. 150 of the Public Acts of 1927, as amended, being §§207.103, 207.117, 207.132, and 207.162 of the Michigan Compiled Laws)

R 207.1 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 150 of the Public Acts of 1927, as amended, being §207.101 et seq. of the Michigan Compiled Laws.

(b) "Boat terminal transfer" means docks, tanks, and equipment contiguous thereto used in unloading gasoline from tank steamers and transferring such gasoline to tanks pending wholesale bulk reshipment. "Boat terminal transfer" also includes tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment.

(c) "Diesel fuel dealer" means any person selling and delivering diesel motor fuel into the fuel supply tanks of motor vehicles in this state. The term "diesel fuel dealer" also means a user, as defined in subdivision (g), who consumes from his own storage facility.

(d) "Gallonage" means gross gallons as measured at actual concurrent temperature of the motor fuel without adjustment of gallonage for any temperature variance.

(e) "Liquefied petroleum gas licensed dealer" means any person using liquefied petroleum gas within the meaning of "use," which includes all of the following:

(i) Selling or delivering liquefied petroleum gas not previously subjected to tax by placing it into either permanently attached fuel supply tanks or motor vehicles.

(ii) Exchanging or replacing fuel supply tanks of a motor vehicle.

(iii) Delivering liquefied petroleum gas into storage to be consumed in motor vehicles on the public roads and highways.

(iv) The withdrawal of liquefied petroleum gas from the cargo tank of a truck, trailer, or semitrailer for the operation of a motor vehicle upon the public roads and highways of this state, whether such fuel is used in vapor or liquid form by a person who is the holder of a valid license issued by the department.

(f) "Retail dealer" means any person or persons, firm, association, or corporation, both private and municipal, other than a wholesale distributor, that engages in the business of selling or distributing gasoline within this state.

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(g) "User" means and includes a natural person, partnership, firm, association, joint stock company, syndicate, and corporation, and any receiver, trustee, conservator, or any other officer having jurisdiction and control of property by virtue of the provisions of any law, that is the owner, in this state or any other state, of a motor vehicle propelled by diesel engines or diesel motors and which receives diesel fuel into its fuel supply tank.

(h) "Wholesale distributor" means any person or persons, firm, association, or corporation, both private and municipal, that does any of the following:

(i) Imports gasoline into the state from any other state, territory, or possession of the United States, or foreign country.

(ii) Produces, manufactures, refines, or blends gasoline within this state.

(iii) Receives gasoline from a refiner or manufacturer of gasoline or from a boat terminal transfer in this state for storage and subsequent sale and distribution.

(iv) Receives gasoline from a refiner or manufacturer of gasoline or from a boat terminal transfer in this state solely for storage and consumption.

History: 1954 ACS 98, p. 28, Eff. Mar. 14, 1979.

R 207.2 Wholesale gasoline distributor, diesel dealer, diesel user, and liquid petroleum gas dealer; licensing; applications; fees.

Rule 2. (1) To procure a license, a wholesale gasoline distributor, diesel dealer, diesel user, and liquid petroleum gas dealer shall file with the department a verified application form prescribed and furnished by the department.

(2) The application of a wholesale distributor of gasoline shall contain the name under which the applicant intends to transact business; the names and addresses of the several persons constituting the firm or partnership, and, if a corporation, the corporate name, the state where incorporated, the date incorporated, the name of its officers and directors and, if a foreign corporation, the name of its resident agent; the location of its place of business, the date such business was established, and any other information the department may require.

(3) The application of a diesel dealer shall include the name and address of the dealer and each place of business operated by such dealer at which diesel motor fuel is or will be dispensed into fuel supply tanks of motor vehicles, and such other information as the department may reasonably require for the purpose of the act.

(4) The diesel user application shall contain the name under which the user registers his or her motor vehicle or vehicles and the name and address of the owner, partnership, or, if a corporation, the names and addresses of the several persons constituting the firm and, if a foreign corporation, the name of its resident agent, the location of its place of business, and such other pertinent information the department may require.

(5) The application of a liquefied petroleum gas dealer shall include the name and address of the dealer and each place of business operated by such dealer at which liquefied petroleum gas will be used within the meaning of the term "use," as referred to in R 207.1(e), and such other information as the department may require.

(6) At the time of applying for a wholesale gasoline distributor's license an applicant shall pay an annual fee of $5.00.

(7) An applicant for a diesel dealer, diesel user, and liquefied petroleum license shall pay an annual fee of $1.00.

History: 1954 ACS 98, p. 28, Eff. Mar. 14, 1979.

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R 207.3 Wholesale gasoline distributor license, diesel dealer license, and liquefied petroleum gas dealer license; applicant; surety bond.

Rule 3. (1) If an applicant for a wholesale gasoline distributor license, a diesel dealer license, or a liquefied petroleum gas dealer license cannot satisfy the department as to the applicant's financial responsibility, the applicant shall file with the department a cash or surety bond payable to the state, upon which the applicant is the obligor.

(2) The bond of a wholesale gasoline distributor shall not be less than $1,000.00 nor more than $25,000.00.

(3) The bond of a diesel dealer or a liquefied petroleum gas dealer shall not be less than $500.00 nor more than $5,000.00.

(4) All bond requirements are determined based on the assumption that the applicant shall comply with the laws pertaining to motor fuel taxes and will promptly file true reports and pay the taxes and penalties provided for or required. Such bonds shall be approved as to the amount and sureties by the department.

(5) The department may require such additional bond as shall be deemed necessary, within the limits in this rule, on giving of 10 days' notice. Upon approval of the department, an applicant may file with the department good and sufficient security or personal bond in such form and amount as the department may require, but the amount of personal bond shall not exceed limitations as outlined.

(6) The department may require a licensee to furnish such additional bond as shall be deemed necessary within the limits outlined on the giving of 10 days' notice in writing.

History: 1954 ACS 98, p. 29, Eff. Mar. 14, 1979.

R 207.4 Licensed wholesale gasoline distributor, diesel dealer, liquefied petroleum gas dealer, and diesel user; filing reports and remitting tax.

Rule 4. (1) A licensed wholesale gasoline distributor, diesel dealer, liquefied petroleum gas dealer, and diesel user, except a user who acquires all diesel fuel from a dealer or licensed dealer, shall file reports and remit tax due on or before the twentieth day of the month next succeeding the month in which the tax accrued, except that if the twentieth day of a month falls on a Saturday, Sunday, or legal holiday, the tax is due on the next regular business day. A final report is due 20 days after the date of selling or dissolution of a business.

(2) The commissioner of revenue may require filing of reports on other than a monthly basis.

History: 1954 ACS 98, p. 29, Eff. Mar. 14, 1979.

R 207.5 Licensed wholesale gasoline distributor, diesel dealer, or liquefied petroleum gas dealer; failure to file monthly report and pay tax; revocation of license; filing report and paying tax within 7 days after due date.

Rule 5. (1) If a licensed wholesale gasoline distributor, licensed diesel dealer, or licensed liquefied petroleum gas dealer fails, refuses, or neglects to file a monthly report and pay the full amount of tax, the department shall, after notice and hearing, revoke the license and shall promptly notify the license holder of the result of the hearing by notice sent by certified mail to the most recent address of the holder appearing in department records.

(2) If the report is filed and the tax is paid within 7 days after it became due, and it is established that the delay was due to an accident or justifiable oversight, the department may continue the privileges of the license.

History: 1954 ACS 98, p. 29, Eff. Mar. 14, 1979.

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R 207.6 Failure to file return or pay tax; penalty and interest.

Rule 6. If a licensee, or any other person subject to the provisions of the motor fuel act, fails or refuses to file a report or pay the tax required by the act within the time specified by sections 8, 27, and 57 of Act No. 150 of the Public Acts of 1927, as amended, being §§207.108, 207.127, and 207.157 of the Michigan Compiled Laws, a penalty of $5.00 or 5% of the tax, whichever is greater, shall be added if the failure is for not more than 1 month or fraction of a month. An additional penalty of 5% shall be added for each additional month, or fractions thereof, during which the failure continues or the tax and penalty is not paid, to a maximum of 25%. In addition to the penalty, interest shall be added at the rate of ¾ of 1% per month on the amount of the tax from the time the tax was due until the date of payment.

History: 1954 ACS 98, p. 29, Eff. Mar. 14, 1979.

R 207.7 Licensee; neglecting or refusing to file report or pay tax; computation and collection of tax by department.

Rule 7. If a licensee neglects or refuses to file a report and pay tax due as imposed by Act No. 150 of the Public Acts of 1927, as amended, being §§207.101 to 207.186 of the Michigan Compiled Laws, the department may compute tax due from any information available and may proceed to collect the tax due. The department may use all legal means at its disposal to collect such tax due based upon such computed reports.

History: 1954 ACS 98, p. 30, Eff. Mar. 14, 1979.

R 207.8 Wholesale gasoline distributor, diesel fuel dealer, user, or liquefied petroleum gas dealer; revocation of license; reinstatement; surety bond.

Rule 8. (1) Before a wholesale gasoline distributor, diesel fuel dealer, user, or liquefied petroleum gas dealer, whose license has been revoked, may apply for or obtain the reinstatement of a license, such wholesale gasoline distributor, diesel dealer, user, or liquefied petroleum gas dealer shall pay to the department any and all delinquent taxes, penalties, interest, and costs that remain unpaid.

(2) An applicant shall file with the department a surety bond, upon which the licensee is the obligor, to secure the prompt filing of true reports and full payment of taxes. The bond shall be in such amount as the department shall determine, not to exceed 4 times the applicable rate of tax per gallon on all taxable gallons for the preceding month.

(3) If no liability was incurred during the preceding month, or if for any reason a computation cannot be made, an amount determined by the department, not exceeding 4 times the applicable rate of tax, may be estimated, which estimate may be based upon any information available.

History: 1954 ACS 98, p. 30, Eff. Mar. 14, 1979.

R 207.9 Gasoline tax; deduction by wholesale distributor to allow for evaporation and loss; credit to registered retail dealer operating on consignment basis; losses occurring after gasoline incurs taxable status; statutory refund allowance.

Rule 9. (1) In computing gasoline tax, 3% of the quantity of gasoline received by a wholesale distributor shall be deducted to allow for evaporation and loss, if, at the time of filing the report and paying the tax, the wholesale gasoline distributor submits satisfactory evidence to the department that the amount of tax represented by ⅛ of the deduction has been paid or credited to the registered retail dealers on quantities sold to them during the period covered by the report.

(2) Registered retail dealers operating on a consignment basis shall receive credit as settlement and payment for the product for quantities sold to them, notwithstanding that loss may not have occurred.

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(3) Losses occurring after gasoline has incurred taxable status is not subject to refund of tax as the distributor is allowed 3% by statute.

(4) Reimbursement or refund of tax on any loss shall not exceed the statutory allowance provided in section 8 of Act No. 150 of the Public Acts of 1927, as amended, being §207.108 of the Michigan Compiled Laws.

History: 1954 ACS 98, p. 30, Eff. Mar. 14, 1979.

R 207.10 Licensed wholesale distributor; collection of tax; monies held in trust if not paid to the department.

Rule 10. A licensed wholesale distributor who sells or distributes gasoline for any purpose shall collect tax from the purchaser at the applicable rate per gallon. All monies paid by the purchaser as taxes on gasoline that have not been paid to the department shall be and remain public money, the property of the state, and shall be held in trust in a separate account by the wholesale distributor for the sole use and benefit of the state, until paid to the department.

History: 1954 ACS 98, p. 30, Eff. Mar. 14, 1979.

R 207.11 Purchases of gasoline entitled to refund of state gasoline tax paid; claims; deduction from refund of sales tax due.

Rule 11. (1) The following purchasers of gasoline are entitled to a refund of the state gasoline tax paid:

(a) Persons using gasoline for any purpose other than to operate vehicles on the public roads and highways of this state.

(b) State and federal governmental units using gasoline in vehicles owned and operated by such entities.

(c) Persons operating passenger vehicles of a capacity of 5 or more under a municipal franchise, license, permit, or agreement.

(d) Political subdivisions of the state.

(e) Nonprofit private, parochial, or denominational schools, colleges, and universities purchasing gasoline for use in school buses owned and operated by such entities.

(f) Persons operating passenger vehicles for the transportation of school students under a certificate of public convenience and necessity issued by the public service commission.

(2) A purchaser shall file a verified claim on forms furnished by the department within 1 year from the date of purchase, as shown by the invoice. Any claim received within the 1-year period, as evidenced by the postmark, shall be considered timely filed. A refund claim shall comply with the following requirements to qualify for payment after the time limit has been established:

(a) An original numbered invoice (top copy received at time of delivery) for each purchase shall be attached to the claim. The invoice shall contain all of the following:

(i) Name and address of dealer.

(ii) Date of sale.

(iii) Name and address of purchaser.

(iv) Number of gallons, price per gallon, and Michigan gasoline tax shown as a separate item.

(v) The signature of the dealer or his agent.

(b) A claim shall not be considered for gasoline that has not been consumed.

(c) An invoice shall clearly indicate that payment has been made to the supplier.

(d) All invoices become part of the claim and shall not be returned.

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(e) A claim accompanied by invoices on which there is evidence of changes shall be disallowed in its entirety.

(f) A claim shall not be approved if the gasoline is used in motor vehicles both on and off the public highways, if use is from the common supply tank of the vehicle.

(g) If highway and nonhighway vehicles are fueled from storage, records of withdrawal shall be maintained showing dates, number of gallons, and vehicle fueled.

(h) If the original invoice is not received, or if it is lost or destroyed, an affidavit to that effect shall be submitted to the department, and if it is determined the cause was not due to carelessness on the part of the purchaser, a duplicate invoice shall be accepted.

(3) If a verified claim of a purchaser shows or indicates that the gasoline used by the claimant is subject to sales tax under Act No. 167 of the Public Acts of 1933, as amended, being §§205.51 to 205.78 of the Michigan Compiled Laws, the department shall deduct from the refund the amount of sales tax due.

History: 1954 ACS 98, p. 31, Eff. Mar. 14, 1979.

R 207.12 Tax lien; recording.

Rule 12. (1) Taxes imposed, plus any penalties, interest, and costs which may have accrued, shall become a lien in favor of the state against all property and rights of property, both real and personal, then owned or afterwards acquired by the licensee, to secure payment to the state.

(2) All state tax liens are recorded as provided for in Act No. 203 of the Public Acts of 1968, being §211.681 et seq. of the Michigan Compiled Laws. A state tax lien not recorded is void as against any mortgagee, pledgee, purchaser, including a land contract purchaser, or judgment creditor who secured any interest in the property subject to the lien prior to the time such notice of lien was filed or recorded.

History: 1954 ACS 98, p. 31, Eff. Mar. 14, 1979.

R 207.13 Department; authority to examine records and enter premises to take samples of petroleum products and make tests.

Rule 13. Authorized agents of the department of treasury may examine the books, records, and papers of any wholesale distributor, retail dealer, contract or common carrier, diesel dealer, diesel user, or liquefied petroleum dealer pertaining to products received, sold, shipped, or delivered to verify the accuracy of any statement, report, or return. The department may also enter the premises of any blender or dealer in petroleum products at all reasonable times to take samples of petroleum products and to make such tests as may be required in the enforcement of the act.

History: 1954 ACS 98, p. 31, Eff. Mar. 14, 1979.

R 207.14 Gasoline withdrawn from marine or pipeline storage and returned to terminal storage; unauthorized receipt of gasoline by means of landborne equipment into terminal storage.

Rule 14. Gasoline withdrawn from marine or pipeline storage, on which taxes have been paid, shall not be returned to terminal storage without receiving prior authorization from the department of treasury, motor fuel tax division. This does not pertain to gasoline withdrawn and returned for meter test. The unauthorized receipt of gasoline by means of landborne equipment into terminal storage shall

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result in the conversion of tax-free storage to a tax-paid bulk plant and tax shall be due on inventory on hand.

History: 1954 ACS 98, p. 32, Eff. Mar. 14, 1979.

R 207.15 Terminals containing gasoline of more than 1 owner; operator; duties.

Rule 15. A terminal that contains gasoline inventory of more than 1 owner shall be identified as commingled terminals. The operator of the terminal, for the purpose of the act, shall be considered as the owner of all product. The operator is responsible for all receipts, shipments, use, and losses on which tax applies.

History: 1954 ACS 98, p. 32, Eff. Mar. 14, 1979.

R 207.16 Night permit.

Rule 16. (1) A wholesale distributor, retail dealer, or any other person selling gasoline to the consumer shall not receive or deliver any gasoline into storage tanks or other storage devices between the hours of 9 p.m. and 5 a.m. without prior written consent of the department.

(2) To secure a permit, the wholesale distributor, retail dealer, or any other person shall file with the department an application on a form prescribed and furnished by the department.

(3) The application shall contain the name and address of the applicant, the wholesale distributor license number, retail dealer registration number, or, if a common carrier, the common carrier certificate number or contract carrier number.

(4) When the permit is for use of a motor vehicle, the applicant shall include the make of vehicle, type, identification number, current license number, capacity in gallons, and trailer license number.

(5) An applicant shall furnish any other information the department may reasonably require for the purpose of this act.

(6) Receipt of gasoline between those hours by any wholesale distributor, retail dealer, or any other person without prior written consent, shall be prima facie evidence of a violation of the provisions of the act.

History: 1954 ACS 98, p. 32, Eff. Mar. 14, 1979.

STATE TAX COMMISSION

GENERAL RULES

(By authority conferred on the state tax commission by section 33 of Act No. 306 of the Public Acts of 1969, and section 9b of Act No. 206 of the Public Acts of 1893, as added, being §§24.233 and 211.9b of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 209.1 Definitions.

Rule 1. As used in these rules:

(a) "Act" means the general property tax act, being Act No. 206 of the Public Acts of 1893, as amended, and §§211.1 to 211.157 of the Michigan Compiled Laws.

(b) "Commission" means the state tax commission.

History: 1954 ACS 67, p. 5, Eff. May 27, 1971.

R 209.3 Jurisdiction.

Rule 3. The commission has jurisdiction and may hold hearings in the following matters:

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(a) Local property tax assessments.

(i) Taxpayer appeals. See section 152 of the act.

(ii) Omissions from tax rolls. See section 154 of the act.

(iii) Revision of personal property assessments. See section 22 of the act.

(b) Local tax exemption certificates for pollution control facilities.

(i) Water pollution. See Act No. 222 of the Public Acts of 1966, being §§323.351 to 323.358 of the Michigan Compiled Laws.

(ii) Air pollution. See Act No. 250 of the Public Acts of 1965, as amended, being §§336.1 to 336.8 of the Michigan Compiled Laws.

(c) Utility property assessments. See Act No. 282 of the Public Acts of 1905, as amended, being §§207.1 to 207.21 of the Michigan Compiled Laws.

(d) Allocation of millage in counties. See sections 217 and 217a of Act No. 62 of the Public Acts of 1933, as amended, being §§211.217 and 211.217a of the Michigan Compiled Laws.

(e) Equalization of assessments.

(i) County. See section 34 of the act.

(ii) State. See Act No. 44 of the Public Acts of 1911, as amended, being §§209.1 to 209.8 of the Michigan Compiled Laws.

History: 1954 ACS 67, p. 5, Eff. May 27, 1971.

R 209.5 Procedure in general.

Rule 5. The statutory references in R 209.3 prescribe commission procedure in the several matters in varying degrees of detail and to which reference shall be made. Additional procedures are prescribed in these rules, matters applicable to all commission procedure, with exceptions as noted, being covered in the remainder of this part.

History: 1954 ACS 67, p. 5, Eff. May 27, 1971.

R 209.7 Business hours.

Rule 7. The office of the commission is at Lansing, Michigan and is open from 8:00 to 12:00 a.m. and 1:00 to 5:00 p.m. daily, except Saturdays, Sundays and legal holidays.

History: 1954 ACS 67, p. 5, Eff. May 27, 1971.

R 209.8 Filing of papers.

Rule 8. Papers required by statute or rule to be filed with the commission shall be filed with the secretary of the commission.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.9 Representation.

Rule 9. (1) Practice before the commission, except in a matter involving state equalization, shall be by an individual or personal representative upon adequate identification evidenced by written authorization.

(2) In a formal hearing an individual may represent himself, a partnership or corporation may be represented by a partner or officer, or the individual, partnership, or corporation, may be represented by licensed attorneys.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.10 Investigations and informal dispositions.

Rule 10. (1) The commission may refer any matter to its representative for further investigation. The representative shall submit a written report of findings

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and recommendations to the commission. The report shall be made available to the parties upon written request to the commission.

(2) The commission, upon its own motion, may request any person it deems necessary to assist in presentation of facts to the commission informally or at a hearing.

(3) If disposition cannot be made by an informal method, the commission shall hold a hearing without undue delay.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.11 Notices of hearings.

Rule 11. When a matter is placed on the calendar for hearing, the commission's secretary shall notify the parties of the time and place of hearing not less than the statutory period before the day of the hearing, except that in a proceeding under section 152 of the act notice to the taxpayer shall be given not less than 14 days before the day of the hearing.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.12 Hearings.

Rule 12. (1) A hearing before the commission shall be public except that the commission may, for good cause shown, exclude from the hearing a person who does not have a direct interest therein.

(2) The hearing shall be conducted informally and a record of proceedings shall not be made unless requested by a party in writing.

(3) If a record of proceedings is to be made, the appellant, the opposite party and the commission may be represented by counsel and swear witnesses.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.13 Transcripts of proceedings.

Rule 13. A party desiring a transcript of testimony and proceedings at a hearing before the commission after proper notification to the opposite party and to the commission and at his own expense may make arrangements for the reporting and transcription thereof by a stenographer. He shall furnish a copy of the transcript to the commission without cost to the commission. Any other party to the hearing may obtain a copy of the transcript from the stenographer upon payment of fees for the copy which shall not be greater than those permitted for copies of transcripts in the circuit court in the county in which the hearing is held.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.14 Failure to appear.

Rule 14. A continuance shall not be granted due to unexcused absence of a party, his representative, or his attorney, at the time and place set for a scheduled hearing before the commission. The hearing shall proceed and the case shall be regarded as submitted on the part of the absent party.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.15 Evidence.

Rule 15. (1) The rules of evidence applicable to proceedings in the circuit court shall apply so far as practicable to a hearing before the commission, but the commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The commission may exclude evidence which is incompetent, immaterial, or unduly repetitious.

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(2) The commission shall take official notice without further identification of the contents of original records and documents in possession of the commission when duly certified copies thereof are offered in evidence and made a part of the record. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

(3) The following do not constitute evidence:

(a) Statements of counsel.

(b) Unidentified and unauthorized documents and letters.

(c) Affidavits and appraisals which have not been submitted before the hearing to the opposite party and the commission, and approved by the parties to be admitted as evidence at the hearing.

(d) Briefs and arguments.

History: 1954 ACS 67, p. 6, Eff. May 27, 1971.

R 209.16 Exhibits.

Rule 16. Documents and papers offered in evidence by the parties at a hearing before the commission shall be marked as exhibits. Exhibits offered by a taxpayer shall be marked "Taxpayer's Exhibit No. ___" and shall be consecutively numbered. Exhibits offered by any other party shall be marked "(type of party) Exhibit No. ___" and shall be consecutively numbered. Exhibits offered by the commission or its representative shall be marked "Commission Exhibit No. ___" and shall be consecutively numbered.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971.

R 209.17 Amendments to pleadings.

Rule 17. An amendment to pleadings may be made at any time before a hearing with consent of the parties and the commission. A copy of the amendment shall be attached to the motion to amend.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971.

R 209.18 Stipulations of fact.

Rule 18. The parties may agree as to any fact before final submission of a matter by written stipulation filed with the commission.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971.

R 209.19 Briefs.

Rule 19. A brief and reply brief may be filed by a party before the hearing, but if filed thereafter shall be filed within the time designated by the commission or representative holding the hearing.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971.

PART 2. LOCAL PROPERTY TAXES

R 209.21 "Special tools" defined.

Rule 21. "Special tools," as used in section 9b of the act, means those finished or unfinished devices, such as dies, jigs, fixtures, molds, patterns, and special gauges, used or being prepared for use in the manufacturing function for which they are designed or are acquired or made for the production of products or models and are of such specialized nature that their utility and amortization cease with the discontinuance of such products or models.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971; 1954 ACS 97, p. 12, Eff. Nov. 25, 1978.

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R 209.23 Exemption certificates for pollution control facilities.

Rule 23. An application for property tax exemption for a water or air pollution control facility shall be filed on forms in accordance with instructions furnished by the commission.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971.

R 209.24 Personal property examiners' certifications.

Rule 24. An application for certification as a personal property examiner shall provide a complete background of education and experience in property tax administration and shall be filed with the commission.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971.

R 209.25 Appraisal manuals.

Rule 25. Two copies of an appraisal manual, other than the commission manual, which is to be used by an independent appraisal firm shall be submitted for approval by the commission.

History: 1954 ACS 67, p. 7, Eff. May 27, 1971.

R 209.26 Assessment rolls.

Rule 26. (1) The procedures and instructions in chapter II of the assessors manual, as amended, shall be followed in describing real property in the assessment roll.

(2) An entry in an assessment roll shall be in permanent ink or machine inscribed. An erroneous figure entered shall not be erased, but shall be crossed out and the proper figure shall be entered, initialed, and dated.

History: 1954 ACS 67, p. 8, Eff. May 27, 1971.

R 209.28 Board of review minutes and lists of changes.

Rule 28. (1) A board of review shall keep minutes on an assessment action which shall state the name of the person appearing, the date, the description or assessment code number of the property assessment, whether the assessment was protested and the final action of the board.

(2) An assessment unit shall file with the commission a detailed list of the assessment changes, reasons for the changes, and school districts in which the property is located, for each property changed by action of the December board of review.

History: 1954 ACS 67, p. 8, Eff. May 27, 1971.

PART 3. PROPERTY ASSESSMENT REVIEW BY COMMISSION

R 209.31 Personal property assessment revisions.

Rule 31. A petition which is filed with the commission under section 22 of the act for revision of a personal property assessment shall be fully substantiated. The petitioning party shall seek acceptance from the other party. If the other party does not accept, a hearing shall be held.

History: 1954 ACS 67, p. 8, Eff. May 27, 1971.

R 209.32 Property assessment letters of appeal.

Rule 32. A property assessment appeal shall be commenced by filing with the commission a letter of appeal within the time limit prescribed by statute setting forth the intent to appeal, whether the appeal is on real or personal property or both, the county and township or city in which the property is located, the

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number of assessments upon which appeal is taken in an assessing unit, the name and mailing address of the taxpayer, and in case of an agent, his name and mailing address.

History: 1954 ACS 67, p. 8, Eff. May 27, 1971.

R 209.33 Forms for perfecting appeals.

Rule 33. (1) Upon receipt of a letter of appeal the commission shall docket and assign a number for each assessment on appeal and send to the appellant or his agent, appropriate forms for perfecting the appeal.

(2) After the commission mails the forms the appellant or his agent shall complete and return the forms to the commission within 30 days or the appeal shall be considered withdrawn and shall be dismissed by the commission unless permission for an extension is approved in writing within the 30 days.

(3) An appraisal of the property to be submitted by a party shall be filed within 60 days after mailing of forms by the commission, unless permission for an extension is granted in writing by the commission.

(4) Exhibits which are not attached to a form shall be served on the opposite parties within 5 days after they are filed with the commission. The service may be made by the party or his representative personally or by certified mail with return receipt demanded.

History: 1954 ACS 67, p. 8, Eff. May 27, 1971.

R 209.34 Form and style of papers.

Rule 34. (1) Property assessment appeal papers filed with the commission shall be printed or typewritten, and if typewritten, shall be typed on only 1 side of plain white paper. The paper shall not be more than 8½ inches wide and 13 inches long except exhibits, plat maps and photographs. Copies shall be legible but may be on any weight paper.

(2) Citations shall be in italics when printed, and underscored when typewritten.

(3) Except as otherwise provided in these rules, a signed original and 1 copy of papers shall be filed with the commission and 1 copy shall be filed with the opposite party.

(4) When a paper is filed in more than 1 proceeding such as a motion to consolidate proceedings or in proceedings already consolidated, 1 additional copy shall be filed for each additional proceeding.

(5) Exhibits shall remain with the commission until 60 days after an official order is rendered, after which they shall be returned to the sender upon request.

History: 1954 ACS 67, p. 8, Eff. May 27, 1971.

R 209.35 Service of forms.

Rule 35. An appellant shall file proof of service with the commission within 5 days after the service. Proof of service shall be in the following form, dated and signed: "A true copy of this _____ has been this day forwarded by U.S. mail to (opposite party)."

History: 1954 ACS 67, p. 9, Eff. May 27, 1971.

R 209.36 Answers.

Rule 36. (1) After service of a copy of the prescribed forms, documents, exhibits, maps and photographs, the opposite party shall file a full and complete answer within 30 days after receipt of all papers and documents.

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(2) A paragraph in the answer shall be numbered to correspond with the paragraph of the form.

(3) An original and 1 copy of the answer shall be filed with the commission and 1 copy filed with the appellant or his agent.

(4) Proof of service shall be filed.

(5) Failure to file an answer with the commission and to serve a copy upon the appellant and to file a proof of service thereof with the commission shall result in the allegations of the appellant's complaint standing as admitted, subject only to such other and different proofs as the commission's staff may properly introduce.

History: 1954 ACS 67, p. 9, Eff. May 27, 1971.

R 209.37 Letters of acceptance.

Rule 37. (1) If the investigation in a property assessment appeal indicates that the current assessment does not agree with the true cash value reduced to the assessment level of all other real or personal property in the assessing unit, the recommendations of the commission's representative shall be submitted to both parties for an agreed settlement. Both parties shall reply within 20 days after receipt of the representative's recommendation.

(2) If both parties accept the representative's recommendations, the commission shall issue an order accordingly. If a party disagrees with the recommendation, the commission shall fix a time for a hearing if demanded by a party.

History: 1954 ACS 67, p. 9, Eff. May 27, 1971.

R 209.38 Representatives' reports.

Rule 38. The commission's representative's report shall be made available to the parties to the appeal upon written request to the commission within 30 days after the commission has mailed the letter for an agreed settlement. A representative's report shall not be furnished after a decision is rendered unless an action in court is commenced requiring the report for the record.

History: 1954 ACS 67, p. 9, Eff. May 27, 1971.

R 209.39 Applicability of part.

Rule 39. This part governs pending reviews by the commission to the extent of proceedings conducted hereunder after the effective date hereof.

History: 1954 ACS 67, p. 9, Eff. May 27, 1971.

PART 4. EQUALIZATION AND UTILITY ASSESSMENTS

R 209.41 County equalization.

Rule 41. Reports shall be filed on forms prescribed by, and in accordance with instructions furnished by, the commission. The procedures and instructions in chapter XVI of the assessors manual, as amended, shall be followed for equalization. Adjustments made to the base equalized value for a county shall be submitted to the commission not later than December 31.

History: 1954 ACS 67, p. 9, Eff. May 27, 1971.

R 209.43 State equalization.

Rule 43. (1) The commission acting in state equalization matters will hold an annual hearing in the city of Lansing on the fourth Monday in each May at 10:00 a.m., at a location of which the clerk of each county will be notified annually by mail.

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(2) A revision or change from the preliminary statement of assessed valuations shall be announced by the commission at the hearing.

(3) The commission shall hear official representatives from the counties on a roll call of the counties, at which time additional evidence regarding county assessed values shall be presented for consideration. The counties shall notify the commission before the hearing of those persons who are their official representatives.

(4) After roll call of the counties, the commission shall recess for final consideration of evidence presented at the hearing.

History: 1954 ACS 67, p. 9, Eff. May 27, 1971.

R 209.45 Assessment of utilities.

Rule 45. (1) The annual reports of a state assessed utility shall be filed in a manner and on forms prescribed by the state board of assessors.

(2) Reports required to be filed by local governing officials listing valuation and taxes levied shall be on forms and in the manner as prescribed by the board.

(3) Hearings at the annual meeting of the state board of assessors shall be conducted pursuant to section 11 of Act No. 282 of the Public Acts of 1905, as amended, being §207.11 of the Michigan Compiled Laws.

History: 1954 ACS 67, p. 10, Eff. May 27, 1971.

STATE LAND OFFICE BOARD

(By authority of Act No. 155 of the Public Acts of 1937, being §211.351 et seq. of the Michigan Compiled Laws)

AUCTION SALE OF STATE-OWNED LANDS

R 211.1 Date of sale.

Rule 1. Beginning _____ (Date)

The sale will be officially opened _____ (Date), at 9 a.m., Michigan standard time, and continue from day to day until all parcels have been offered.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.2 Time of sale.

Rule 2. Nine a.m. to 12 noon and 1 p.m. to 4 p.m., daily, excepting Saturdays, Sundays, and legal holidays.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.3 Place of sale.

Rule 3. The sale will be conducted at the county seats of the respective counties in the offices of the county treasurers, or such other place designated by the board. Should the county treasurer's office prove unsuitable, the sale may be adjourned to such other place as may be selected. Notice of the place of adjournment will be posted in and near the county treasurer's office.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.4 Properties offered.

Rule 4. All parcels of land to which the state received title pursuant to the tax sale of May, 1938, and all tax sales subsequent thereto, and not previously offered

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for sale, and excepting those parcels withheld from sale by the state land office board in accordance with the provisions of the above act.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.5 List of properties for sale.

Rule 5. Lists of the properties to be offered for sale in each county may be obtained from the respective county treasurers or at the offices of the board. A charge will be made for said lists.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.6 The auction sale.

Rule 6. The sale will be conducted as a public auction. No bids will be received in advance or by mail. Each bidder must be present at the sale or have an authorized agent bid for him. Each parcel will be offered separately and sold to the high bidder, subject to the provisions of the above act and these rules. The auctioneer shall have the right to disregard nuisance and nominal bids.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.7 Order of sale.

Rule 7. The parcels will be offered in the order in which they appear in the printed sale lists for each county.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.8 High bidder must identify himself.

Rule 8. (1) If no bid is received when a parcel is offered, that parcel will not be reoffered at this sale except as provided in the following subrule:

(2) No highest bid will be recognized unless the high bidder immediately identifies himself by signing a memorandum of sale and making a good faith deposit as required by the board or its representative. In the event such high bidder fails or refuses to do so, then the parcel on which he bid will be immediately reoffered by the auctioneer.

History: 1944 AC, p. 420; 1954 AC, p. 1101.

R 211.9 Calendar of sale.

Rule 9. A calendar will be made and posted at the place of sale. This calendar will show as nearly as possible which parcels are to be offered on each day; and insofar as possible it will be posted a week in advance of the offering.

History: 1944 AC, p. 421; 1954 AC, p. 1102.

R 211.10 Minimum sale price.

Rule 10. The minimum price which may be accepted on any parcel is 25% of the assessed value thereof, as of the year preceding that year in which title was vested in the state.

History: 1944 AC, p. 421; 1954 AC, p. 1102.

R 211.11 Terms of sale.

Rule 11. (1) Payments must be in cash, which shall include certified check, bank draft or money order made payable to the order of the state land office board.

(2) Any bidder other than an "owner" or "municipality" as defined in the above act must pay cash for all purchases.

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(3) A "municipality" must pay in cash that portion of the bid price due the other taxing units.

(4) An "owner" may pay cash for any purchase.

(5) An "owner" must pay cash for all purchases of $25.00 or less.

(6) An "owner" may buy on land contract if the purchase price is over $25.00, with a down payment of 10% or more of the purchase price, but not less than $25.00, and the balance shall be payable in successive monthly installments of $1.12 or more per hundred dollars of said balance, which installments shall include interest at the rate of 4% per annum, but no monthly payment shall be for less than $10.00; contract to be paid in full within 10 years from the date of purchase. A standard form of land contract adopted by the state land office board shall be used.

History: 1944 AC, p. 421; 1954 AC, p. 1102.

R 211.12 Procedure for high bidder.

Rule 12. (1) Immediately following the announcement of the highest bid by the auctioneer, the high bidder must present himself before the proper clerk of the sale, execute a memorandum of sale upon the form provided by the board, which form includes an application for a time payment plan for "owners" and affidavit of ownership and make required deposit. One copy of this memorandum must be retained by the bidder.

(2) The high bidder must not later than the close of the next following business day, Saturdays excepted, present his copy of the memorandum of sale to the clerk to identify himself. If such bidder is not an "owner" or a "municipality," he must then pay the full bid price in cash. If he is an "owner," he must either pay the full bid price in cash, or, if he is entitled to a time payment plan, pay the required down payment to purchase on land contract. If such bidder is a "municipality," it must pay in cash that portion of the bid price due the other taxing units.

(3) If a high bidder fails or refuses to complete his bid as provided above, he may, at the option of the board or its representative, be barred from making further bids at the sale and be subject to such penalties as provided by law.

History: 1944 AC, p. 421; 1954 AC, p. 1102.

R 211.13 Procedure for "owner" who was not the high bidder.

Rule 13. (1) Any time within 30 days from the date of the sale of the parcel concerned, an "owner" may claim the property by meeting the highest bid. To do so, he must appear at the place of the sale or other designated place and make a proper application to purchase the property, sign an affidavit of interest and make the required payment. He may pay cash or apply for a land contract on the terms stated above. The 30-day period shall not include the day of the sale, but shall include Sundays and holidays.

(2) An "owner" may meet the highest bid any time within 30 days after the high bidder signs the memorandum of sale, whether or not such high bidder takes up his bid before the close of the following business day. If such high bidder does not make the required payment, an "owner" may still meet the highest bid any time within 30 days from the date of the sale.

History: 1944 AC, p. 421; 1954 AC, p. 1102.

R 211.14 Requirements of a municipality bidding or meeting a highest bid.

Rule 14. A municipality bidding at the sale or meeting a highest bid must, not later than 10 days prior to its bid or meeting bid, file with the board or its

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representative a certified copy of the action of its governing body authorizing the purchase and also prove satisfactory to the board that such lands are needed for public use.

History: 1944 AC, p. 421; 1954 AC, p. 1103.

R 211.15 Procedure of a "municipality" that was not the high bidder.

Rule 15. If an "owner" does not exercise his right to meet the highest bid within the 30-day period allowed him, then a "municipality" as defined in said act may meet the highest bid any time within the following 15 days. It must make application to the board and pay the pro rata share of the purchase price due the other "municipalities." "Municipalities" may make application severally or in combination. The 15-day period shall not include the last day of the 30-day period, but shall include Sundays and holidays.

History: 1944 AC, p. 421; 1954 AC, p. 1103.

R 211.16 Arbitration of priority rights.

Rule 16. Where each of 2 or more "owners" or "municipalities" claims the priority right to purchase a parcel the board shall have the right to require such further proof from the parties of their interest and financial investment in said parcel as it may deem necessary. The board may appoint a committee in each county to investigate and determine the priority rights of such owners.

History: 1944 AC, p. 422; 1954 AC, p. 1103.

R 211.17 "Owner" buying 2 or more parcels; release clauses.

Rule 17. An "owner" buying 2 or more parcels situated in the same subdivision and in the same taxing unit may, at the discretion of the board, purchase as many of such parcels as he wishes on 1 land contract; provided, however, an "owner" buying 2 or more parcels in the city of Detroit may at the discretion of the board purchase as many of such parcels as he wishes on 1 land contract, provided said parcels are purchased during not more than 5 consecutive sales days. The down payment and the monthly payments will be calculated on the total purchase price of the several parcels. Any parcel may be released upon payment of 90% of the purchase price of such parcel, which sum shall be applied upon the principal balance of the contract.

History: 1944 AC, p. 422; 1954 AC, p. 1103.

R 211.18 Closing of the sale; 45-day waiting period.

Rule 18. (1) No deed or contract will be issued until after the expiration of the 45-day period during which an "owner" or "municipality" may offer to meet the highest bid.

(2) After the 45-day period, the successful bidder, if he is entitled to a deed, will be notified to surrender his certificate of purchase and accept delivery of such deed.

(3) If the successful bidder is entitled to a land contract, he will be notified by mail of the time and place to appear to sign and secure his copy of said contract. The purchaser may obtain a postponement of said time by arrangement with the representative of the board, but upon his failure to appear within 10 days of the time set in said notice or of such adjourned date, the certificate of purchase shall be void and the down payment in said land contract shall be forfeited as liquidated damages. The copy of the certificate of purchase held by such purchaser must be surrendered to the board before he can secure his copy of the

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land contract. If an "owner" entitled to a land contract fails to execute the same, and his certificate of purchase has become void as above provided, a deed will be issued or land contract entered into, as the case may be, with the bidder or "owner" meeting the highest bid who would have prevailed but for the rights of the defaulted purchaser, providing said highest bidder or one meeting the high bid, who is entitled to a refund, has not surrendered his certificate of purchase.

History: 1944 AC, p. 422; 1954 AC, p. 1103.

R 211.19 Return of deposits to unsuccessful bidders.

Rule 19. Upon receipt of a matching bid the high bidder will be notified and, provided the matching bidder is entitled to the preference to meet a high bid given to an owner or municipality, the said high bidder may obtain a refund of his deposit upon surrender of his certificate of purchase.

History: 1944 AC, p. 422; 1954 AC, p. 1103.

R 211.20 Possession of properties purchased.

Rule 20. No bidder or purchaser shall be entitled to possession of any properties until delivery of the deed or land contract.

History: 1944 AC, p. 422; 1954 AC, p. 1104.

R 211.21 Cancellation of sale.

Rule 21. The board reserves the right to refund a deposit and cancel a sale before deed or contract has been delivered.

History: 1944 AC, p. 422; 1954 AC, p. 1104.

R 211.22 Definition of "parcel."

Rule 22. A "parcel" as used herein shall be any description contained in the official sale book.

History: 1944 AC, p. 422; 1954 AC, p. 1104.

R 211.23 Lost certificate of purchase or memorandum of sale.

Rule 23. Duplicates may be issued upon furnishing such proof of loss and identification as may be required by the board. A fee of 25 cents shall be charged for such duplicates.

History: 1944 AC, p. 422; 1954 AC, p. 1104.

R 211.24 Forms.

Rule 24. The forms used in furtherance of the sale shall be the standard forms adopted by the board.

History: 1944 AC, p. 422; 1954 AC, p. 1104.

R 211.25 Authority of official representative in each county.

Rule 25. The official representatives of the board shall have full authority and power to conduct the sale in their respective counties in accordance with the provisions of said act and these rules, subject to the control, supervision, and direction of the board.

History: 1944 AC, p. 423; 1954 AC, p. 1104.

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R 211.26 Pronouns.

Rule 26. Pronouns used herein in reference to bidders, owners, and purchasers shall be read as though in the masculine, neuter, feminine, plural, or singular as the case may be.

History: 1944 AC, p. 423; 1954 AC, p. 1104.

AUCTION SALE OF STATE-OWNED LANDS PREVIOUSLY OFFERED FOR SALE

R 211.101 Date of sale.

Rule 1. This sale will begin on such date as may be designated and announced for each county and will continue from day to day except Saturdays, Sundays, and holidays.

History: 1944 AC, p. 423; 1954 AC, p. 1104.

R 211.102 Time of sale.

Rule 2. 9 a.m. to 12 noon and 1 p.m. to 4 p.m., Michigan standard time, daily, excepting Saturdays, Sundays, and legal holidays.

History: 1944 AC, p. 423; 1954 AC, p. 1104.

R 211.103 Place of sale.

Rule 3. This sale will be opened at the offices of the county treasurers or at such other suitable place as the board may select.

History: 1944 AC, p. 423; 1954 AC, p. 1104.

R 211.104 Properties offered.

Rule 4. Parcels of land to which the state received title as a result of the tax sales and which were offered at public auction pursuant to section 7 of the above mentioned act and which were not sold or have not been subsequently deeded to municipalities or withheld from sale by the board.

History: 1944 AC, p. 423; 1954 AC, p. 1104.

R 211.105 Lists of properties for sale.

Rule 5. Lists of the properties to be offered for sale in each county may be obtained from the respective county treasurers, or at the office of the board, capitol building, Lansing. A charge will be made for said lists.

History: 1944 AC, p. 423; 1954 AC, p. 1104.

R 211.106 The auction sale.

Rule 6. The sale will be conducted as a public auction. No bids will be received in advance or by mail. Each bidder must be present at the sale or have an agent bid for him. Each parcel will be sold to the high bidder, subject to the provisions of the above act and these rules and regulations. The auctioneer shall have the right to disregard nuisance and nominal bids and to reject any bids for good cause.

History: 1944 AC, p. 423; 1954 AC, p. 1105.

R 211.107 Order of sale.

Rule 7. The parcels will be offered in the order in which they appear in the official sale's books for each county.

History: 1944 AC, p. 423; 1954 AC, p. 1105.

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R 211.108 Properties to be reoffered.

Rule 8. (1) If no bid is received when a parcel is offered, that parcel may, at the option of the board, be reoffered at this sale.

(2) No highest bid will be recognized unless the high bidder immediately identifies himself by signing a memorandum of sale and making the required deposit. In the event such high bidder fails or refuses to do so, then the parcel on which he bid will be immediately reoffered by the auctioneer.

History: 1944 AC, p. 423; 1954 AC, p. 1105.

R 211.109 Calendar of sale.

Rule 9. A calendar will be made and posted at the place of sale. This calendar will show as nearly as possible which parcels are to be offered on each day; and insofar as possible it will be posted a week in advance where the sale will last for that long a period.

History: 1944 AC, p. 423; 1954 AC, p. 1105.

R 211.110 Minimum sale price.

Rule 10. The minimum price which may be accepted on any parcel is the minimum bid price as fixed by the board.

History: 1944 AC, p. 423; 1954 AC, p. 1105.

R 211.111 Terms of sale.

Rule 11. (1) Payments must be in cash, which shall include certified check, bank draft, or money order made payable to the order of the state land office board.

(2) A buyer may pay cash for any purchase.

(3) A buyer must pay cash for all purchases of $100.00 or less.

(4) A buyer may buy on land contract if the purchase price is over $100.00, with a down payment of 20% or more of the purchase price, but not less than $100.00 and the balance shall be payable in successive monthly installments of $1.46 or more per hundred dollars of said balance, which installments shall include interest at the rate of 4% per annum, but no monthly payment shall be for less than $10.00; contract to be paid in full within 7 years from the date of purchase. A standard form of land contract adopted by the state land office board shall be used.

History: 1944 AC, p. 423; 1954 AC, p. 1105.

R 211.112 Procedure for high bidder.

Rule 12. (1) Immediately following the announcement of the highest bid by the auctioneer, the high bidder must present himself before the proper clerk of the sale and execute a memorandum of sale upon the form provided by the board, which form includes an application for a time payment plan. One copy of this memorandum must be retained by the bidder.

(2) To take up his bid, the high bidder must at once present his copy of the memorandum of sale to the clerk to identify himself, and either pay the full bid price in cash, or, if he is entitled to a time payment plan, pay the required down payment to purchase on land contract.

(3) If a high bidder fails or refuses to complete his bid as provided above, he may, at the option of the board or its representative, be barred from making further bids at the sale and be subject to such penalties as provided by law.

(4) The board reserves the right to reject any or all bids at any time prior to delivery of deeds or contracts covering said bids.

History: 1944 AC, p. 423; 1954 AC, p. 1105.

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R 211.113 Buying 2 or more parcels; release clauses.

Rule 13. Anyone buying 2 or more parcels situated in the same subdivision and in the same taxing unit may, at the discretion of the board, purchase as many of such parcels as he wishes on 1 land contract. The down payment and the monthly payments will be calculated on the total purchase price of the several parcels. Any parcel may be released upon payment of the original unpaid balance of the purchase price of such parcel, which sum shall be applied upon the principal balance of the contract.

History: 1944 AC, p. 423; 1954 AC, p. 1106.

R 211.114 Closing of the sale.

Rule 14. (1) Deeds and contracts will be issued as soon as possible.

(2) If the successful bidder is entitled to a land contract, he will be notified by mail of the time and place to appear to sign and secure his copy of said contract. The purchaser may obtain a postponement of said time by arrangement with the representative of the board, but upon his failure to appear within 10 days of the time set in said notice or of such adjourned date, the certificate of purchase shall be void and the down payment in said land contract shall be forfeited as liquidated damages.

(3) The copy of the certificate of purchase held by such purchaser must be surrendered to the board before he can secure his deed or his copy of the land contract.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

R 211.115 Possession of properties purchased.

Rule 15. No bidder or purchaser shall be entitled to possession of any properties until the delivery of the deed or land contract.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

R 211.116 Definition of "parcel."

Rule 16. A "parcel" as used herein shall be any description contained in the official sale book and offered at this sale.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

R 211.117 Lost certificate of purchase or memorandum of sale.

Rule 17. Duplicates may be issued upon furnishing such proof of loss and identification and payment of such fee as may be required by the board.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

R 211.118 Forms.

Rule 18. The forms used in furtherance of the sale shall be the standard forms adopted by the board.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

R 211.119 Authority of official representative in each county.

Rule 19. The official representatives of the board shall have full authority and power to conduct the sale in the respective counties in accordance with the provisions of said act and these rules, subject to the control, supervision, and direction of the board.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

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R 211.120 Pronouns.

Rule 20. Pronouns used herein in reference to bidders, owners, and purchasers shall be read as though in the masculine, neuter, feminine, plural, or singular as the case may be.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

R 211.121 Amendments.

Rule 21. These rules may be amended at any time without notice by action of the state land office board.

History: 1944 AC, p. 424; 1954 AC, p. 1106.

PRIVATE SALE OF STATE-OWNED LANDS

R 211.201 Place of sale.

Rule 1. The sale shall be conducted by the state land office board at its office in Lansing, Michigan, or by a duly authorized representative in the county in which said lands are located.

History: 1944 AC, p. 424; 1954 AC, p. 1107.

R 211.202 Office hours.

Rule 2. Eight a.m. to 5 p.m., daily, excepting Saturdays, Sundays, and legal holidays, or at any other designated time.

History: 1944 AC, p. 424; 1954 AC, p. 1107.

R 211.203 Properties to be offered at private sale.

Rule 3. (1) All properties that have been offered at public auction under the provisions of section 7 of said Act No. 155 and not sold or otherwise disposed of or withheld by the board will be offered for sale.

(2) Lists and minimum sale prices of properties to be sold at private sale are available to the general public at offices of the board or county treasurers. Said lists will be revised and supplemented from time to time.

History: 1944 AC, p. 424; 1954 AC, p. 1107.

R 211.204 Procedure of sale.

Rule 4. Any person desiring to purchase any listed property shall make application therefor upon the form of "offer to purchase" available at the office of the board, and submit the same properly completed and executed in triplicate to the board, or to its authorized representative, either in person or by mail accompanied by the required cash deposit. Such offer shall be in an amount not less than the appraised value of the property as established by the state land office board.

History: 1944 AC, p. 425; 1954 AC, p. 1107.

R 211.205 Terms of sale.

Rule 5. All payments must be in cash or by certified check, bank draft, or money order payable to the state land office board. All sales of $100.00 or less must be for cash. Any sale over $100.00 may be for cash or on a land contract basis. If on land contract, the down payment shall be at least 20% of the purchase price but not less than $100.00, and the balance shall be payable in successive monthly installments of $1.46 or more per $100.00 of said balance, which installments shall include interest at the rate of 4% per annum, but no monthly

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payment shall be for less than $10.00; contract to be paid in full within 7 years from date of purchase.

History: 1944 AC, p. 425; 1954 AC, p. 1107.

R 211.206 Required cash deposit.

Rule 6. The "offer to purchase" shall be accompanied by the full purchase price on all offers of $100.00 or less; if over $100.00, the required deposit shall be at least 20% of the total offer but not less than $100.00. The supervisory sales agent may at its option, accept with an "offer to purchase" vacant land, a deposit of 5% of the minimum sales price, but not less than $25.00, together with the total amount of all raises; said deposit shall be accompanied by an agreement from the offerer to pay the required balance of the down payment or full purchase price within 60 days from the date of said offer. The deposit shall be forfeited upon the offerer's failure to pay the said required balance as above provided.

History: 1944 AC, p. 425; 1954 AC, p. 1107.

R 211.207 Offer subject to higher offer for 7 days.

Rule 7. Each offer will be held for a period of 7 days from the day the offer is received. If the 7th day falls on a legal holiday the offer will be held by the board until the close of the following business day. During said 7-day period, no further offer will be received unless such further offer is in an amount increased by $25.00, or not less than 10% of the minimum sale price, whichever is the larger.

History: 1944 AC, p. 425; 1954 AC, p. 1107.

R 211.208 Offers irrevocable for 20 days.

Rule 8. Any offer to purchase shall be irrevocable for a period of 20 days after being made as herein required and thereafter may be revoked only by written notice of revocation given to the board before notice has been mailed to the offerer that a contract is ready for execution by the offerer, or deed is ready for delivery, as the case may be.

History: 1944 AC, p. 425; 1954 AC, p. 1107.

R 211.209 Closing of land contracts and delivery of deeds.

Rule 9. (1) All land contracts will be closed at the office of the state land office board, or at such other location as may be established by the board. Due notice of the closing date will be mailed to the purchaser at the designated address appearing in the "offer to purchase" unless purchaser has otherwise instructed the board in writing. If purchaser does not appear to sign land contract within 10 days from closing date, or make satisfactory arrangements for postponement, the sale may be voided at the option of the board and all rights of purchaser terminated, and the deposit shall be forfeited to the state as liquidated damages.

(2) Deed or land contract, as the case may be, shall be issued in the exact name, or names, as designated in the "offer to purchase." The board reserves the right to reject any offer at any time prior to delivery of deed or land contract, and in the event of rejection by the board, it will return the deposit accompanying the offer.

History: 1944 AC, p. 425; 1954 AC, p. 1108.

R 211.210 Buying 2 or more parcels; release clause.

Rule 10. Anyone buying 2 or more parcels situated in the same subdivision and in the same taxing unit may, at the discretion of the board, purchase as many of such parcels as he wishes on 1 land contract. The down payment and the monthly

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payments will be calculated on the total purchase price of the several parcels. Any parcel may be released upon payment of the original unpaid balance of the purchase price after the down payment on such parcel, which sum shall be applied upon the principal unpaid balance of said contract, plus a service charge of $1.00 for each such release.

History: 1944 AC, p. 425; 1954 AC, p. 1108.

R 211.211 Possession of properties purchased.

Rule 11. No purchaser shall be entitled to possession of any properties until the delivery of the deed or land contract.

History: 1944 AC, p. 425; 1954 AC, p. 1108.

R 211.212 Forms.

Rule 12. The form of land contract and deed given and all other forms used in completion of the sale shall be the standard forms adopted by the board.

History: 1944 AC, p. 425; 1954 AC, p. 1108.

R 211.213 Authority of authorized representative.

Rule 13. The authorized representative of the board shall have full authority and power to conduct the sale in accordance with the provisions of said act and these rules, subject to the control, supervision, and direction of the board.

History: 1944 AC, p. 425; 1954 AC, p. 1108.

R 211.214 Amendments.

Rule 14. These rules may be amended at any time without notice by action of the state land office board.

History: 1944 AC, p. 425; 1954 AC, p. 1108.

PRIVATE SALE OF STATE-OWNED LANDS BY EXCLUSIVE SUPERVISORY SALE AGENTS

R 211.301 Place of sale.

Rule 1. The sale shall be conducted by the exclusive supervisory sales agent of the state land office board for the county in which said lands are located.

History: 1944 AC, p. 426; 1954 AC, p. 1108.

R 211.302 Office hours.

Rule 2. Nine a.m. to 4 p.m., Monday through Friday; and 9 a.m. to 12 noon, Saturday.

History: 1944 AC, p. 426; 1954 AC, p. 1109.

R 211.303 Properties to be offered at private sale.

Rule 3. (1) All properties that have been offered at public auction under the provisions of section 7 of said Act No. 155 and not sold or otherwise disposed of or withheld by the board will be offered for sale.

(2) Lists and minimum sale prices of properties to be sold at private sale are available to all licensed real estate brokers and the general public at offices of the board or supervisory sales agent. Said lists will be revised and supplemented from time to time.

History: 1944 AC, p. 426; 1954 AC, p. 1109.

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R 211.304. Procedure of sale.

Rule 4. Any person desiring to purchase any listed property shall make application therefor upon the form of "offer to purchase" available at the offices of the exclusive supervisory sales agent, and submit the same properly completed and executed in triplicate to said agency either in person or through a licensed real estate broker accompanied by the required cash deposit. Such offer shall be in an amount not less than the appraised value of the property as established by the state land office board.

History: 1944 AC, p. 428; 1954 AC, p. 1109.

R 211.305 Terms of sale.

Rule 5. All payments must be in cash or by certified check, bank draft, or money order payable to the exclusive supervisory sales agent. All sales of $100.00 or less must be for cash. Any sale over $100.00 may be for cash or on a land contract basis. If on land contract, the down payment shall be at least 20% of the purchase price but not less than $100.00, and the balance shall be payable in successive monthly installments of $1.46 or more per $100.00 of said balance, which installments shall include interest at the rate of 4% per annum, but no monthly payment shall be for less than $10.00; contract to be paid in full within 7 years from date of purchase.

History: 1944 AC, p. 428; 1954 AC, p. 1109.

R 211.306 Required cash deposit.

Rule 6. The "offer to purchase" shall be accompanied by the full purchase price on all offers of $100.00 or less; if over $100.00, the required deposit shall be at least 20% of the total offer but not less than $100.00. The supervisory sales agent may, at its option, accept with an "offer to purchase" vacant land, a deposit of 5% of the minimum sales price, but not less than $25.00, together with the total amount of all raises; said deposit shall be accompanied by an agreement from the offerer to pay the required balance of the down payment or full purchase price within 60 days from the date of said offer. The deposit shall be forfeited upon the offerer's failure to pay the said required balance as above provided.

History: 1944 AC, p. 428; 1954 AC, p. 1109.

R 211.307 Offer subject to higher offer for 7 days.

Rule 7. Each offer will be held for a period of 7 days from the day the offer is received. If the 7th day falls on a legal holiday, the offer will be held by the board until the close of the following business day. During said 7-day period, no further offer will be received unless such further offer is in an amount increased by $25.00, or not less than 10% of the minimum sale price, whichever is the larger.

History: 1944 AC, p. 428; 1954 AC, p. 1109.

R 211.308 Offers irrevocable for 20 days.

Rule 8. Any offer to purchase shall be irrevocable for a period of 20 days after being made as herein required and thereafter may be revoked only by written notice of revocation given to the board before notice has been mailed to the offerer that a contract is ready for execution by the offerer, or deed is ready for delivery, as the case may be.

History: 1944 AC, p. 428; 1954 AC, p. 1109.

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R 211.309 Closing of land contracts and delivery of deeds.

Rule 9. (1) All land contracts will be closed at the office of the state land office board, or at such other location as may be established by the board. Due notice of the closing date will be mailed to the purchaser at the designated address appearing in the "offer to purchase" unless purchaser has otherwise instructed the agency in writing. If purchaser does not appear to sign land contract within 10 days from closing date, or make satisfactory arrangements for postponement, the sale may be voided at the option of the board and all rights of purchaser terminated, and the deposit shall be forfeited to the state as liquidated damages.

(2) Deed or land contract, as the case may be, shall be issued in the exact name or names, as designated in the "offer to purchase." The board reserves the right to reject any offer at any time prior to delivery of deed or land contract, and in the event of rejection by the board, it will return the deposit accompanying the offer.

History: 1944 AC, p. 426; 1954 AC, p. 1109.

R 211.310 Buying 2 or more parcels; release clause.

Rule 10. Anyone buying 2 or more parcels situated in the same subdivision and in the same taxing unit may, at the discretion of the board, purchase as many of such parcels as he wishes on 1 land contract. The down payment and the monthly payments will be calculated on the total purchase price of the several parcels. Any parcel may be released upon payment of the original unpaid balance of the purchase price after the down payment on such parcel, which sum shall be applied upon the principal unpaid balance of said contract, plus a service charge of $1.00 for each such release.

History: 1944 AC, p. 427; 1954 AC, p. 1110.

R 211.311 Sales made through licensed real estate brokers.

Rule 11. (1) Any duly licensed real estate broker submitting an "offer to purchase," as required herewith and with the required deposit, shall be entitled to a commission thereon in accordance with the real estate broker commission schedule established by the board, upon execution and delivery of land contract or deed, as the case may be. A broker will not be allowed a commission as to purchase by such broker, either directly or indirectly.

(2) Any broker may register in writing with the exclusive supervisory sales agent the name of prospects to whom he has personally shown property, giving the date of showing and description of property. Such broker may be allowed a commission on any sale of property appearing in said registration made upon an offer thereafter submitted to the agency by the prospect personally and not through another broker within 30 days from the date of registration.

(3) In the case of duplicate offers to purchase the same property, priority will be given the first received.

(4) All conflicting claims between 2 or more brokers and any questioned claim of any broker as to rights to commission may, at the discretion of the board, be referred to an arbitration committee appointed by the board, or its duly authorized agent, for settlement and the finding of such committee will be final and binding on the broker or brokers involved.

History: 1944 AC, p. 427; 1954 AC, p. 1110.

R 211.312 Possession of properties purchased.

Rule 12. No purchaser shall be entitled to possession of any properties until the delivery of the deed or land contract.

History: 1944 AC, p. 427; 1954 AC, p. 1110.

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R 211.313 Forms.

Rule 13. The form of land contract and deed given, and all other forms used in completion of the sale, shall be the standard forms adopted by the board.

History: 1944 AC, p. 427; 1954 AC, p. 1110.

R 211.314 Authority of supervisory sales agent.

Rule 14. The supervisory sales agent of the board shall have full authority and power to conduct the sale in accordance with the provisions of said act and these rules, subject to the control, supervision, and direction of the board.

History: 1944 AC, p. 427; 1954 AC, p. 1110.

R 211.315 Amendments.

Rule 15. These rules may be amended at any time without notice by action of the state land office board.

History: 1944 AC, p. 427; 1954 AC, p. 1110.

STATE ASSESSOR'S BOARD

GENERAL RULES

(By authority conferred on the state assessor's board by section 33 of Act No. 306 of the Public Acts of 1969, being §24.233 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 211.401 Definitions.

Rule 1. As used in these rules:

(a) "Act" means sections 10c and 10d of Act No. 206 of the Public Acts of 1893 as added by Act No. 203 of the Public Acts of 1969, being §§211.10c and 211.10d of the Michigan Compiled Laws.

(b) "Board" means the state assessor's board.

History: 1954 ACS 78, p. 7, Eff. Feb. 20, 1974.

R 211.403 Jurisdiction.

Rule 3. The board has jurisdiction and may hold hearings in the following matters:

(a) Assessor training programs.

(b) Assessor certification.

(c) Level of certification required of assessing units.

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974.

R 211.404 Office and meetings.

Rule 4. (1) The office of the board is located in the Treasury Building, Lansing, Michigan, and is open daily, except Saturdays, Sundays, and legal holidays.

(2) Regular meetings of the board shall be held each month at a time and place specified by the chairman or a majority of the members of the board.

(3) Special meetings of the board may be called by the chairman or a majority of the board.

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974; 1954 ACS 91, p. 13, Eff. Mar. 23, 1977.

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R 211.405 Organization.

Rule 5. (1) The board shall elect a chairman and vice chairman at the first scheduled meeting of each year.

(2) The board shall establish and maintain the position of executive secretary to conduct activities, effect policies and procedures, and maintain communications with assessing officers; and such other positions as deemed necessary.

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974.

R 211.407 Filing of papers.

Rule 7. Papers required by statute or rule to be filed with the board shall be filed with the secretary of the board.

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974.

R 211.408 Information available to public.

Rule 8. Inquiries as to the level of certification required by an assessing unit, the certification status of an assessing officer or the availability of approved assessor training programs may be made verbally or in writing to the secretary of the board.

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974.

R 211.409 Declaratory rulings.

Rule 9. An interested person desiring a declaratory ruling as to the application of the act or rules of the board to an actual state of facts shall submit a request in writing giving full information as to the background, reasoning and proposed ruling. The board shall consider the request as soon as practicable and may hold a hearing before accepting the proposed ruling or another ruling.

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974.

PART 2. TRAINING PROGRAMS

R 211.421 Educational institution information.

Rule 21. An educational institution conducting an assessor training program shall submit, in writing, to the board a syllabus of its program with an outline of courses or classes offered, the number of hours for each course, reference and text material, and any other pertinent information specifically requested by the board no later than August 1 of each year for consideration by the board.

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974.

R 211.422 Educational institution courses.

Rule 22. As a requisite for approval by the board, an assessor training program shall comply with minimum requirements as follows:

Course Description Number	Course Content	Class Hours Required
	BASIC	
	A. Basic assessment administration (30 hours)	
1 & 2	History of property taxation; basic administration; public and human relations	3
18	Personal property	3
3	Local government finance	3
4	General property tax law	6

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Course Description Number	Course Content	Class Hours Required
5	Assessment, equalization and appeals	6
8	Valuation concepts	3
6	Property descriptions	3
15 & 20	Agricultural appraisals or appraising timber	3
	B. Basic appraisal (30 hours)	
9	Economic concepts of value	3
10	Cost approach to value	6
11	Market data approach to value	6
12	Income approach to value	3
13	Architectural types and construction	3
14	Residential appraisals	9
	INTERMEDIATE	
	C. Intermediate assessment administration (30 hours)	
6	Property descriptions, parcel numbering and tax mapping	12
5	Assessment, equalization and appeals	9
7	Aerial photographic interpretation	6
3	Local government finance	3
	D. Intermediate appraisal (30 hours)	
10	Cost approach to value	3
11	Market data approach to value	3
12	Income approach to value	6
13	Architectural types and construction	3
14	Residential appraisals	3
16	Commercial appraisals	6
17	Industrial appraisals	6
	ADVANCED	
	E. Advanced assessment administration (30 hours)	
18	Personal property and accounting principles	12
19	Appeal procedures	12
21	Assessment of special use properties	6
	F. Advanced appraisal (30 hours)	
7	Aerial photographic interpretation	9
15	Agricultural appraisals	12
20	Appraising timber lands	9

History: 1954 ACS 78, p. 8, Eff. Feb. 20, 1974.

R 211.423 Courses required for approval of educational institutions.

Rule 23. An educational institution, to be approved by the board for training at any specified level, shall offer the following courses for training at that level:

Level 1.....A and B
Level 2.....A to D
Level 3.....A to F
Level 4.....A to F plus 30 hours of instruction in areas outlined in R 211.435 at an approved educational facility.

History: 1954 ACS 78, p. 9, Eff. Feb. 20, 1974; 1954 ACS 91, p. 14, Eff. Mar. 23, 1977.

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R 211.427 Examinations.

Rule 27. (1) An educational institution desiring to administer a certification examination may apply in writing to the board upon termination of an approved assessor training program. The request shall indicate the level of certification examination desired. The request shall be made at least 30 days before the desired examination date. The fee for an examination is $15.00 and shall be paid prior to writing an examination.

(2) An examination shall be monitored or controlled by the board or its authorized representative.

(3) Notices of examination results shall be stated as passing or failing.

(4) There shall be a 90-day waiting period between writings of the same level of examination.

(5) Examination scores shall remain valid for a period not to exceed 180 days from the date the examination was written.

History: 1954 ACS 78, p. 9, Eff. Feb. 20, 1974; 1954 ACS 91, p. 14, Eff. Mar. 23, 1977.

PART 3. RATING AND CERTIFICATION

R 211.431 Rating of assessing units.

Rule 31. (1) An assessing unit shall be rated as to the level of certification which is required to assess or equalize the entire unit in accordance with R 211.432 to R 211.435. An individual may qualify at a level higher than the level assigned to his unit.

(2) Factors considered by the board in assigning levels to assessing units are:

(a) Total state equalized value.

(b) Percentage of value in commercial and industrial classifications, both real and personal.

(c) Assistance given the local unit by the equalization department or state tax commission on special use properties.

(3) A rating is subject to review and change annually. Notice of any change shall be mailed not later than July 1 of each year to the state tax commission and to the affected counties and units.

(4) A request for a hearing on the rating shall be in writing and shall be submitted to the board postmarked not later than August 1 each year. The appellant shall be notified on or before September 1 as to the date set for a hearing.

History: 1954 ACS 78, p. 10, Eff. Feb. 20, 1974; 1954 ACS 91, p. 14, Eff. Mar. 23, 1977.

R 211.432 Certification at level 1; qualifications.

Rule 32. (1) A person to be qualified for certification at level 1 shall be able to:

(a) Assess residential property, using the cost and market approach. This category of property includes, but is not restricted to:

(i) Single-family dwellings.

(ii) Duplexes and small multi-family dwellings.

(iii) Farmhouses.

(iv) Garages, sheds, barns, silos, and corncribs.

(b) Assess land improvements for the types of properties listed in subdivision (a). Examples include, but are not restricted to:

(i) Fencing.

(ii) Paving and drives.

(iii) Retaining walls.

(iv) Wells and septic systems.

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(c) Assess all types of land.

(d) Assess timber and cut-over timber, if applicable, using the market approach.

(e) Read, write, and draw basic property descriptions.

(f) Collect, analyze, and maintain sales data.

(g) Understand the basic principles of the cost and market valuation concepts and be aware of the income approach.

(h) Make working use of communication skills.

(i) Demonstrate general knowledge of the general property tax laws, including rules of the state tax commission and Michigan tax tribunal; assessment, allocation, and equalization appeal procedures; and the tax calendar.

(j) Demonstrate working knowledge of how the equalization process works and is applied in:

(i) Preparing assessment rolls.

(ii) Preparing required state tax commission forms.

(iii) Preparing required reports to the county and state.

(k) Demonstrate general knowledge of laws regarding assessing of personal property.

(2) Examination and verification of accounting records is not required at this level.

History: 1954 ACS 78, p. 10, Eff. Feb. 20, 1974; 1954 ACS 91, p. 14, Eff. Mar. 23, 1977.

R 211.433 Certification at level 2; qualifications.

Rule 33. A person to be qualified for certification at level 2 shall be able to:

(a) Meet all level 1 requirements.

(b) Assess smaller or light-use commercial properties using acceptable appraisal techniques. Examples include, but are not restricted to:

(i) Stores, shops, and restaurants.

(ii) Warehouses.

(iii) Gas stations.

(iv) Apartment houses.

(c) Assess smaller, well-defined, general-purpose industrial properties using acceptable appraisal techniques. Examples include, but are not restricted to:

(i) Light assembly buildings.

(ii) Small machine shops and light manufacturing.

(d) Develop capitalization rates from the marketplace.

(e) Determine value of land using the land residual approach.

(f) Determine value of farm and timberlands, if applicable, by the income approach.

(g) Examine income tax statements and cost records for verification of personal property reports.

History: 1954 ACS 78, p. 10, Eff. Feb. 20, 1974; 1954 ACS 91, p. 15, Eff. Mar. 23, 1977.

R 211.434 Certification at level 3; qualifications.

Rule 34. A person to be qualified for certification at level 3 shall be able to:

(a) Meet all levels 1 and 2 requirements.

(b) Assess large and difficult properties of all types. Examples include, but are not restricted to:

(i) Regional shopping centers.

(ii) Industrial complexes and heavy manufacturing.

(iii) Concentrated downtown areas, including high-rise office buildings, hotels, and department stores.

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(iv) Condominiums and apartment complexes.

(c) Demonstrate a thorough working knowledge of all approaches to value.

(d) Examine and verify industrial and commercial personal property records.

(e) Organize and coordinate mass appraisal projects.

(f) Demonstrate a knowledge of how equalization studies are implemented for determination of assessment levels within townships or cities, or both.

(g) Administer an assessor's office, including, but not limited to:

(i) Working with other governmental agencies.

(ii) Setting up record books and assessment systems, maps, and the like.

(iii) Scheduling work loads and planning assessment reviews and personal property audits.

(iv) Education of subordinates in the practices and procedures of assessment.

(h) Demonstrate a knowledge of tax tribunal decisions, court decisions, and attorney general opinions pertaining to property assessment and taxation.

History: 1954 ACS 78, p. 11, Eff. Feb. 20, 1974; 1954 ACS 91, p. 15, Eff. Mar. 23, 1977.

R 211.435 Certification at level 4; qualifications.

Rule 35. A person to be qualified for certification at level 4 shall be able to:

(a) Meet all levels 1, 2, and 3 requirements.

(b) Administer and formulate policies for the more complex assessment office.

(c) Demonstrate a knowledge of all phases of the general property tax law and its implications; and of current and decided court cases affecting property taxation; and demonstrate an ability to keep current on contemplated laws and bills in the legislature and their probable effect on local revenues.

(d) Demonstrate a knowledge of local government finance, including, but not limited to:

(i) Allocation procedures.

(ii) Apportionment.

(iii) Special millage elections and bonding issues.

(e) Communicate with government officials and general public.

(f) Prepare a narrative appraisal report, the valuation date of which shall not be more than 1 year from the date of submission to the board. Guidelines for writing the narrative appraisal are available upon request.

(g) Successfully complete an oral exam that relates to all items listed in R 211.432 to R 211.435.

History: 1954 ACS 78, p. 11, Eff. Feb. 20, 1974; 1954 ACS 91, p. 15, Eff. Mar. 23, 1977.

R 211.437 Certification of individuals; form; fee; time; qualifications; limitation.

Rule 37. (1) An application for certification of an individual shall be on the form prescribed by and available from the board, Department of Treasury, Lansing, Michigan 48922. The application form shall be accompanied by a fee of $25.00, which is not refundable. Application for certification shall be made within 180 days of passage of the examination.

(2) An individual seeking certification at a specific level shall have knowledge and understanding of the assessing profession for that level as prescribed in R 211.432 to R 211.435.

(3) An individual shall be certified by examination only. An individual seeking certification at level 4 shall be certified at level 3 or have successfully completed the level 3 examination.

(4) An individual shall assess only the properties covered by his certification level, unless conditional certification is granted by the board under R 211.439(1).

History: 1954 ACS 78, p. 11, Eff. Feb. 20, 1974; 1954 ACS 91, p. 16, Eff. Mar. 23, 1977.

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R 211.439 Conditional, regular, and provisional certification.

Rule 39. (1) Conditional certification may be granted to a newly-elected assessing officer at level 1 or 2, or to an assessing officer in a unit which has had the level of certification increased by the board under R 211.431(2). Conditional certifications are granted on a 1-time basis only and may not be renewed or extended. To be eligible for conditional certification, the assessing officer shall file the following papers with the board as soon as practicable:

(a) An application for certification, with the application filing fee of $25.00 attached.

(b) A request for conditional certification of the assessing officer submitted by the governing body of the local assessing unit.

(c) A statement from the assessing officer outlining the course of training he plans to pursue to become certified at the required level.

(2) Regular certification is granted to an individual employed by a governmental unit in the field of assessment administration who has completed the requirements for certification. A regular certification shall be changed to a provisional certification when the individual is no longer employed in the field of assessment administration.

(3) Provisional certification may be granted to an individual who has completed the requirements for certification, but is not currently employed in the field of assessment administration. A provisional certificate may be changed to a regular certificate upon notice from a local assessing unit that the provisionally certified individual is performing specific duties related to the assessment function.

History: 1954 ACS 78, p. 11, Eff. Feb. 20, 1974; 1954 ACS 91, p. 16, Eff. Mar. 23, 1977.

R 211.441 Certification of state tax commission chairman, appraisers, and equalization directors.

Rule 41. (1) A state tax commission chairman shall qualify at level 4 certification within 2 years after his appointment.

(2) All property appraisers above the grade of 11 in the employ of the commission shall be certified at level 4. All property appraisers at the grade of 11 in the employ of the commission shall be certified at level 3.

(3) An equalization director shall qualify for a certification at the level of certification assigned to his county by the board under R 211.431(1), unless conditional certification is granted by the board under R 211.439(1).

History: 1954 ACS 78, p. 12, Eff. Feb. 20, 1974; 1954 ACS 91, p. 16, Eff. Mar. 23, 1977.

R 211.442 Certification of appraisal firm personnel.

Rule 42. An appraisal firm doing business in this state, and employed to make appraisals for assessment purposes shall have a project supervisor certified at the level required of the assessing unit. The certification shall be required of the project supervisor in residence or of any staff member assigned comparable duties and responsibilities. The certification level shall be equal to the highest designated certification necessary for the units of government where the firm will be conducting business.

History: 1954 ACS 78, p. 12, Eff. Feb. 20, 1974; 1954 ACS 91, p. 17, Eff. Mar. 23, 1977.

R 211.444 Renewal of certification.

Rule 44. (1) A certification expires biennially beginning December 30, 1974. A certification may be renewed upon application and payment to the board of a

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renewal fee of $15.00 and evidence of annual attendance at a renewal seminar as specified by the board. Notice of renewal requirements and classes shall be sent to each certified assessor by regular first-class mail. It is the responsibility of the certified individual to keep the board informed of his current mailing address. Failure to receive notice by first-class mail does not nullify the annual requirement.

(2) Applications approved by the board from July to December meetings of the board during even-numbered years shall be granted a certificate for the next expiration period, and the board may waive the renewal seminar for that year only. Certifications granted in the odd-numbered years between July and December shall not be required to attend the renewal seminar for that year, but attendance shall be required at the renewal seminar of the expiration year.

(3) An individual certified at level 3 or higher shall submit proof of attendance at a 6-hour appraisal seminar conducted by a recognized assessment or appraisal association in addition to the requirements in R 211.444(1) and (2).

History: 1954 ACS 78, p. 12, Eff. Feb. 20, 1974; 1954 ACS 91, p. 17, Eff. Mar. 23, 1977.

R 211.447 Revocation of certification; grounds; hearing.

Rule 47. A certification may be revoked for a false statement on the application, malfeasance, misfeasance, nonfeasance, or an unethical practice. Proceedings for revocation may be initiated by petition to the board or on a motion of the board. Upon petition to the board, a hearing shall be held as soon as possible under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws.

History: 1954 ACS 91, p. 17, Eff. Mar. 23, 1977.

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DEPARTMENT OF TRANSPORTATION

HEARINGS ON TRAFFIC CONTROL ORDERS

(By authority conferred on the state highway commissioner by Act No. 197 of the Public Acts of 1952, as amended, and Act No. 88 of the Public Acts of 1943, as amended, being §24.101 et seq. and §24.71 et seq. of the Michigan Compiled Laws)

R 225.1 Referral of hearing to highway department staff member.

Rule 1. The hearings required to be conducted under §257.675 of the Michigan Compiled Laws may be referred by the state highway commissioner to a member of the staff of the state highway department, who shall hear the evidence, prepare such record as is required by §§24.101 to 24.110 of the Michigan Compiled Laws, and file a report with the state highway commissioner.

History: 1954 ACS 29, p. 11, Eff. Feb. 14, 1962.

R 225.2 "City" defined.

Rule 2. The term "city" shall be deemed to mean a home rule city duly incorporated pursuant to the laws of the state of Michigan.

History: 1954 ACS 29, p. 11, Eff. Feb. 14, 1962.

R 225.3 Appearance.

Rule 3. When an appearance is made at such hearing, it shall be made by legal counsel for and on behalf of the city or by some other person duly authorized by the legislative body of the city.

History: 1954 ACS 29, p. 11, Eff. Feb. 14, 1962.

R 225.4 Notice of intention to file traffic control order.

Rule 4. Whenever the state highway commissioner and the commissioner of the Michigan state police shall deem it necessary to issue a traffic control order as set forth in §257.675(d) of the Michigan Compiled Laws, the state highway commissioner, individually, or by his duly authorized representative, shall notify the city involved by registered mail of his intention to file a traffic control order with the county clerk and the effective date thereof. Such notice shall set forth the nature of the order, the reasons therefor, and shall be mailed to the city clerk or city manager, or mayor of said home rule city.

History: 1954 ACS 29, p. 12, Eff. Feb. 14, 1962.

R 225.5 Notice of objections to proposed order; service.

Rule 5. The city, if it shall desire a hearing, shall, within 20 days after receiving notice as set forth in R 225.4, notify and serve upon the state highway commissioner, by registered mail, specifications of its objections to the proposed traffic control order.

History: 1954 ACS 29, p. 12, Eff. Feb. 14, 1962.

R 225.6 Notice of hearing.

Rule 6. Upon receipt of demand for a hearing and objections by the city, the state highway commissioner shall, within 10 days, notify the city by registered mail of the date, time, and place for holding said hearing.

History: 1954 ACS 29, p. 12, Eff. Feb. 14, 1962.

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R 225.7 Adjournment or continuance of hearing.

Rule 7. No hearing shall be adjourned or continued, except upon order of the state highway commissioner or his agent designated to conduct the hearing. All motions and requests for an adjournment or continuance shall be accompanied by a statement of the reasons therefor. No motion or request for an adjournment or continuance will be considered unless same is filed with the state highway commissioner at least 5 days prior to the date assigned for the hearing, except that the state highway commissioner or his agent may accept such request during a hearing or may waive the 5-day notification if proper showing is made that, for reasons not within the control of the city making the motion or request, the motion or request could not be filed within the said 5-day period.

History: 1954 ACS 29, p. 12, Eff. Feb. 14, 1962.

R 225.8 Stipulations.

Rule 8. The parties to any hearing before the state highway commissioner, may, by stipulation in writing, filed with the state highway commissioner, agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence on the hearing.

History: 1954 ACS 29, p. 12, Eff. Feb. 14, 1962.

R 225.9 Depositions.

Rule 9. Depositions may be taken upon written authority of the state highway commissioner if it appears to the state highway commissioner that it is impracticable or impossible to obtain the evidence otherwise. Where depositions are permitted, they shall be taken according to the rules for taking depositions in civil cases in the state of Michigan as provided by §617.6 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 29, p. 12, Eff. Feb. 14, 1962.

R 225.10 Parties in interest.

Rule 10. The state highway commissioner and the city shall be deemed the sole parties in interest in the hearing, and they alone are permitted to present evidence, to cross-examine, and to exercise other legal rights afforded an interested party in a contested case.

History: 1954 ACS 29, p. 12, Eff. Feb. 14, 1962.

CLASSIFICATION AND RATING OF BIDDERS

(By authority conferred on the state highway commission by section 9 of Act No. 286 of the Public Acts of 1964 and section 33 of Act No. 306 of the Public Acts of 1969, being §§247.809 and 24.233 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 247.1 Effective date and applicability.

Rule 1. These rules are effective April 15, 1975.

History: 1954 ACS 58, p. 6, Eff. May 15, 1969; 1954 ACS 83, p. 5, Eff. Apr. 16, 1975.

R 247.11 Definitions.

Rule 11. (1) "Commission" means the state highway commission.

(2) "Committee" means the prequalification committee authorized by these rules.

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(3) "Department" means the department of state highways and transportation.

(4) "Financial resources" means the information shown on an annual financial statement, which shall include a balance sheet, an operating statement and appropriate supporting schedules based upon the bidder's established annual accounting period.

(5) "Bidder" means an individual proprietor, a person acting under an assumed name, a partnership, a corporation or a combination thereof which seeks to perform work for the commission. When a combination of any of the aforementioned entities is prequalified, it shall be prequalified as only 1 bidder which may act through an authorized representative.

(6) "Day" means a calendar day.

History: 1954 ACS 58, p. 6, Eff. May 15, 1969; 1954 ACS 71, p. 10, Eff. Apr. 18, 1972; 1954 ACS 83, p. 5, Eff. Apr. 16, 1975.

PART 2. PREQUALIFICATION COMMITTEE

R 247.21 Membership and general duties.

Rule 21. (1) The commission shall appoint a prequalification committee composed of members of the department's staff. The committee shall classify and numerically rate bidders for the commission's construction work. The 3 major factors used in arriving at this rating are:

(a) The bidder's financial resources and related information.

(b) The bidder's experience, key personnel, and past performance on work of a similar nature.

(c) The bidder's construction equipment and facilities which it proposes to use on the work advertised for construction.

(2) The committee shall determine if the bidder is a suitable person to bid on the work. The committee shall keep minutes of its proceedings and shall notify bidders in writing of their classification and ratings.

History: 1954 ACS 58, p. 6, Eff. May 15, 1969; 1954 ACS 71, p. 11, Eff. Apr. 18, 1972.

R 247.22 Action by the committee.

Rule 22. (1) After approval by the commission, the committee shall notify a bidder in writing of his work classification and rating. The work classification and rating is accepted unless the committee is notified in writing to the contrary within 15 days after a bidder is officially notified.

(2) A bidder submitting a false statement will not be prequalified.

(3) A bidder who fails to comply with each provision of the rules or fails to complete each applicable item and schedule set forth in the prequalification forms is disqualified from bidding on department construction work, until all requirements are met.

(4) A bidder may at any time be given a provisional numerical rating while hearings or investigations are being conducted upon its submitted financial, experience, or equipment data. The provisional prequalification may be removed as a result of the findings of the committee, and be converted to:

(a) Disqualification upon findings adverse to the bidder.

(b) Continuous qualification upon findings favorable to the bidder.

(c) Continued provisional prequalification pending further investigation and findings by the committee.

(5) The committee may declare a prequalified bidder ineligible to bid at any time because of developments subsequent to prequalification which, in their opinion, would affect the responsibility of the bidder or his ability to perform the

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contract work. The committee shall notify the bidder of any such action taken and give him the opportunity to present additional information at a hearing.

History: 1954 ACS 58, p. 7, Eff. May 15, 1969; 1954 ACS 71, p. 11, Eff. Apr. 18, 1972; 1954 ACS 83, p. 5, Eff. Apr. 16, 1975.

PART 3. INFORMATION FROM BIDDERS

R 247.31 Prequalification for bidding.

Rule 31. The rules governing financial statements and financial resources govern the numerical rating given to a bidder seeking prequalification whether it wishes to bid at a single bid letting or wishes annual prequalification.

History: 1954 ACS 58, p. 7, Eff. May 15, 1969; 1954 ACS 83, p. 5, Eff. Apr. 16, 1975.

R 247.32 Time for filing forms and statements.

Rule 32. (1) Prequalification forms shall be submitted at least 15 days before the formal date for opening bids for a project on which the bidder desires to bid if it is not previously prequalified.

(2) A financial statement as at the close of the bidder's fiscal year is required. Interim financial statements will not be accepted.

(3) For annual prequalification, a bidder shall submit prequalification forms and its financial statement within 3½ months after the close of the bidder's fiscal year.

(4) A request for an extension of time in which to file the prequalification questionnaire shall be applied for in writing on or before the due date of the questionnaire. If approved, the extension shall not exceed 60 days.

(5) A statement of current contracts and subcontracts shall be submitted as required under R 247.43(3) and (4).

History: 1954 ACS 58, p. 7, Eff. May 15, 1969; 1954 ACS 71, p. 11, Eff. Apr. 18, 1972; 1954 ACS 83, p. 5, Eff. Apr. 16, 1975.

R 247.33 Forms and effect.

Rule 33. (1) A bidder's financial resources shall be set forth in appropriate prequalification forms to be furnished by the commission.

(2) The operating statement will not affect the rating factors and methods set forth in these rules.

History: 1954 ACS 58, p. 7, Eff. May 15, 1969; 1954 ACS 83, p. 6, Eff. Apr. 16, 1975.

R 247.34 Certification and verification of statements.

Rule 34. (1) A bidder applying for prequalification for construction work for more than $200,000.00 shall submit with the financial statement portions of the prequalification forms a copy of its most recent audited financial statement as of the same date as on the prequalification forms reflecting the accounting theory and practice consistently employed by the bidder and prepared and certified to by an independent certified public accountant. If the certified public accountant cannot express an opinion as to the overall fairness of the financial statement, the bidder's prequalification for work will be limited to $200,000.00. If an opinion contains exceptions which are material in the judgment of the committee, the items may be disallowed for prequalification purposes. The certification of a certified public accountant employed on the payroll of the bidder or who is an officer of or a director of the firm seeking prequalification is not acceptable. The certification and subsequent submission of questionnaires or other certified documents to the prequalification committee for acceptance and approval by any certified public accountant who is related to or associated in any business enterprise with a member of the committee or the committee staff shall not be

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accepted by the committee. If 60% or more of the total annual fees of a certified public accountant are derived from a single prequalifying bidder, his certification of the financial statement of that bidder for prequalification is not acceptable.

(2) Prequalification for work of $200,000.00 or less does not require certification of the financial statement; however, it is desirable. When the statement is not certified, or when a certification contains exceptions, the department may request clarification and verification of any information submitted, and if necessary, examine the bidder's records and accounts.

(3) Prequalification forms shall be sworn to before a notary public by an authorized officer, owner, or partner of the bidder.

History: 1954 ACS 58, p. 7, Eff. May 15, 1969; 1954 ACS 71, p. 11, Eff. Apr. 18, 1972; 1954 ACS 83, p. 6, Eff. Apr. 16, 1975.

R 247.35 Period covered by financial statements.

Rule 35. (1) An annual financial statement submitted by the bidder shall cover the same period as its established fiscal year. A financial statement found to be inconsistent with the bidder's fiscal year will result in the bidder being declared ineligible for prequalification.

(2) A newly formed organization requesting prequalification shall file its opening balance sheet for an initial prequalification rating. Thereafter, financial statements shall cover the same period as its established fiscal year.

History: 1954 ACS 58, p. 8, Eff. May 15, 1969; 1954 ACS 83, p. 6, Eff. Apr. 16, 1975.

R 247.36 Statement of accounting method and basis.

Rule 36. (1) Instructions contained in the prequalification forms shall require a statement of the accounting method and basis used by the bidder in keeping its books of account, which shall also be set forth in the notes to the financial statement or in the accountant's certificate, as follows:

(a) Percentage of completion method.

(b) Completed contract method.

(c) Any other accounting method used by the bidder in keeping its books of account shall require approval in writing by the committee, prior to submission of the bidder's annual report for prequalification.

(2) This rule takes into account the American institute of certified public accountants bulletin 45, dated October, 1955, entitled "Long Term Construction Type Contracts," with particular reference to the handling of the current asset account, "cost in excess of billings," and the current liability account, "billings in excess of cost." Income tax liabilities arising from earned contract income on a completed contract method or percentage of completion method shall be shown as current liabilities. Prior written approval shall be obtained before submission of prequalification financial statements where the books of account are kept by any other method. A written approval may be granted after hearing by the committee.

History: 1954 ACS 58, p. 8, Eff. May 15, 1969.

R 247.37 Supplemental statements.

Rule 37. (1) A bidder who maintains accounting records on a cash basis shall submit a supplemental statement of assets and liabilities on an accrual basis on the schedule provided in the prequalification forms.

(2) A bidder who maintains accounting records on an accrual basis but reports on a completed contract method has the option of submitting a supplemental statement on the schedule provided in the prequalification forms which adjusts the completed contract method, as per its audited annual financial statement, to the percentage of completion method of financial reporting for prequalification

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rating. However, the bidder shall request approval of the committee to report for prequalification purposes using an accounting method other than the method used in maintaining its accounting records and shall receive written approval by the committee. Once having exercised the option, the bidder shall not change the method of reporting without written approval by the committee.

(3) The certified public accountant who prepared and certified the bidder's annual financial report shall prepare and sign the statements.

History: 1954 ACS 58, p. 8, Eff. May 15, 1969; 1954 ACS 83, p. 6, Eff. Apr. 16, 1975.

R 247.38 Evidence of equipment and experience.

Rule 38. At the time a bidder submits the prequalification forms and the required attachments, it shall submit therein evidence that:

(a) It owns or currently leases the major equipment items necessary to perform the work in the various classifications for which it is requesting prequalification. Only 1 additional classification shall be allowed by presenting, for approval by the committee, a copy of a bona fide purchase order or a lease agreement for a minimum of 1 year thereby indicating that it shall purchase or lease the major equipment necessary to perform work in the additional classification. The 1 additional work classification allowed shall be limited to a maximum numerical rating of 20.

(b) The experience of its key personnel makes it capable of performing work in the classifications for which it seeks approval.

History: 1954 ACS 58, p. 9, Eff. May 15, 1969; 1954 ACS 71, p. 12, Eff. Apr. 18, 1972; 1954 ACS 83, p. 7, Eff. Apr. 16, 1975.

R 247.39 Equal employment opportunity policies.

Rule 39. A bidder for highway contracts shall submit on the prequalification form, a statement that it has initiated and intends to continue an equal employment opportunity policy designed to eliminate any discrimination in employment because of race, color, religion, sex or national origin. If the committee finds that a prequalified bidder is not in compliance with the bidder's approved equal employment opportunity policy, the committee may reduce or suspend the bidder's numerical rating subject to the provisions of R 247.46 and part 7 of these rules.

History: 1954 ACS 58, p. 9, Eff. May 15, 1969; 1954 ACS 83, p. 7, Eff. Apr. 16, 1975.

R 247.40 Audits, investigations, and comparisons.

Rule 40. (1) The commission, through the committee, may designate auditors to perform audits on the books of accounts, or investigate any items on the prequalification forms submitted by a bidder. The bidder has the right to a hearing before the committee to explain any conflict arising from such audits or investigations prior to a determination of the bidder's prequalification rating. During the course of such proceedings, the bidder may be given a provisional numerical rating until the commission has made its findings and determinations based on the hearing.

(2) The committee may cause comparative reviews to be made at any time between the bidder's annual prequalification statements and any reports filed by the bidder with other departments of this state based upon the bidder's books of account. When significant variance appears between such reports and the prequalification statement, for which prior approval of the committee was not obtained in writing, the committee shall notify the bidder of a hearing at which the bidder shall show cause why its numerical rating and classifications should not be suspended.

History: 1954 ACS 58, p. 9, Eff. May 15, 1969; 1954 ACS 71, p. 12, Eff. Apr. 18, 1972.

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PART 4. NUMERICAL RATINGS

R 247.41 Factors applied to assets.

Rule 41. The assets as determined from the financial statement shall be used in computing the numerical rating of a bidder by use of the sum of the following factors:

(a) Working capital either positive or negative multiplied by 9.

(b) Depreciation expense on construction and transportation equipment in the amount of 1½ times this allowable amount of depreciation, as recorded on the bidder's books of account and also shown in the space provided in the prequalification questionnaire for the same fiscal year as covered by the prequalification statement, multiplied by 9.

(c) Net construction and transportation equipment values multiplied by 4. This value is the bidder's equity in such equipment less the long term portion of the obligation on this equipment.

History: 1954 ACS 58, p. 9, Eff. May 15, 1969; 1954 ACS 71, p. 12, Eff. Apr. 18, 1972; 1954 ACS 83, p. 7, Eff. Apr. 16, 1975.

R 247.42 Rating table.

Rule 42. (1) The following table shall be used in designating the numerical rating and dollar value of work each bidder is eligible to bid:

Rating Table

Numerical Rating	Value of Work	Numerical Rating	Value of Work
½	$ 5,000	10	$ 100,000
1	10,000	20	200,000
2	20,000	30	300,000
3	30,000	40	400,000
4	40,000	50	500,000
5	50,000	60	600,000
6	60,000	70	700,000
7	70,000	80	800,000
8	80,000	90	900,000
9	90,000	100	1,000,000

For ratings above $1,000,000.00 use same system of numerical rating.

(2) For bidding purposes, a bidder will be given the numerical rating nearest the sum of its financial rating or available balance as computed under these rules.

History: 1954 ACS 58, p. 9, Eff. May 15, 1969; 1954 ACS 71, p. 12, Eff. Apr. 18, 1972; 1954 ACS 83, p. 7, Eff. Apr. 16, 1975.

R 247.43 Work allowed.

Rule 43. (1) The maximum amount of work in dollars allowed at any time shall be the amount of the numerical rating less the bidder's uncompleted work on hand.

(2) "Work on hand" means any uncompleted work to be performed by the bidder.

(3) A contractor desiring to bid on department projects shall file with the department a statement of current contracts and subcontracts reporting work on hand. This statement must be received in the department contract office not less than 6 days or more than 30 days before the date of the specific bid letting at which he wishes to bid. Bidders failing to submit this statement of current

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contracts and subcontracts, in accordance with these rules, shall not be eligible to bid or be issued bidding documents.

(4) The value of any work not completed by the bidder shall be deducted from the bidder's numerical rating in determining his available balance. The value of uncompleted work shall be determined by subtracting from the contract awards the actual pay quantities of work completed up to the time of filing the statement of current contracts and subcontracts. Purchase orders for materials shall not be considered as subcontracts in computing a contractor's net prequalification numerical rating.

(5) Due to unusual delays in starting time on certain classifications of work on large package jobs and in recognition of the prequalification problem this causes in some cases, the committee, at the request of the bidder, may reduce the deduction from the bidder's maximum numerical rating not to exceed 50% for work on hand which cannot be begun in the year in which the prequalification rating applies as shown in the progress schedules. Such deduction shall not be given if the scheduled dates for performance of the work overlaps.

(6) A bidder that is a publicly held company whose stock is listed on either the New York or American stock exchange and who submits its annual certified financial statements for prequalification showing balance sheet current assets exceeding current liabilities of $250,000,000.00 or more shall not be required to submit the monthly statement of current contracts and subcontracts.

History: 1954 ACS 58, p. 10, Eff. May 15, 1969; 1954 ACS 71, p. 12, Eff. Apr. 18, 1972; 1954 ACS 83, p. 7, Eff. Apr. 16, 1975.

R 247.44 Subcontracts.

Rule 44. In establishing a bidder's net numerical rating for all work:

(a) A bidder shall be given credit for the value of all work sublet to other approved contractors.

(b) A bidder, performing as a subcontractor, shall have deductions made for the value of its uncompleted subcontract work.

History: 1954 ACS 58, p. 10, Eff. May 15, 1969; 1954 ACS 83, p. 8, Eff. Apr. 16, 1975.

R 247.45 Tentative numerical ratings.

Rule 45. (1) Initially a bidder will be given a tentative numerical rating factor of 100% on its allowed work classifications. If, in the opinion of the committee, a requested work classification warrants a lower tentative numerical rating factor because of lack of construction experience, organization and personnel, or equipment, this numerical rating will be determined in accordance with R 247.46.

(2) A numerical rating of 20 shall be the maximum granted a bidder for the work classifications it has not previously engaged in.

History: 1954 ACS 58, p. 11, Eff. May 15, 1969; 1954 ACS 71, p. 13, Eff. Apr. 18, 1972; 1954 ACS 83, p. 8, Eff. Apr. 16, 1975.

R 247.46 Changes in numerical ratings.

Rule 46. The numerical rating factor is subject to change, in accordance with these rules, and on completion of contracts with the department as determined by the committee from a summary of reports from field engineers and further investigations by the department of the following factors which may permit deductions up to 100%:

(a) Construction experience.
(b) Quality of work.
(c) Record as to unpaid accounts and claims.
(d) Organization and personnel.
(e) Equipment.

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(f) Unfavorable working capital ratio.
(g) Record of contract completion.
(h) Record of compliance with safety specifications.
(i) Failure to submit required documents.
(j) Failure to comply with any applicable provisions of these rules.
(k) Common ownership and control.
(l) Record of compliance with equal employment opportunity program.
(m) Failure to execute a contract.
(n) Violation of any other contract provisions.

History: 1954 ACS 58, p. 11, Eff. May 15, 1969; 1954 ACS 71, p. 13, Eff. Apr. 18, 1972; 1954 ACS 83, p. 8, Eff. Apr. 16, 1975.

R 247.47 Scope of rules.

Rule 47. This set of rules defines those assets and liabilities, current and fixed, the accounting basis and contract method, depreciation allowance, net equipment values, and operating statement which will be specifically allowed by the committee in fixing the numerical rating of the bidder.

History: 1954 ACS 58, p. 11, Eff. May 15, 1969.

R 247.48 Current asset accounts.

Rule 48. The following current asset accounts will be used by the committee in determining the working capital position of a bidder:

(a) Cash on hand or in banks

(b) Readily marketable securities: Those securities that are verified by the certified public accountant and that represent investments of cash that are available for current operations, excluding investments in affiliated companies

(c) Receivables:

Trade accounts receivable—current:
Including earned estimates in process
Show division of trade receivables as on balance sheet in prequalification forms
Deduct: Reserve for uncollectible accounts
Notes receivable:
Notes due within 1 year
Exclude notes due from officers, employees and affiliated companies
Interest and dividends receivable:
Exclude interest or dividends due from affiliated companies, officers and employees

(d) Cost of uncompleted contracts in excess of related billings

(e) Inventories (at the lower of market or cost), construction materials and supplies on hand

(f) Other allowable current assets

Bid deposits (including bid deposits on joint bidding ventures)
Prepayments:
Insurance, interest, taxes, etc.
Cash surrender value of life insurance
Other assets realizable within 1 year (describe)

History: 1954 ACS 58, p. 11, Eff. May 15, 1969; 1954 ACS 71, p. 13, Eff. Apr. 18, 1972; 1954 ACS 83, p. 8, Eff. Apr. 16, 1975.

R 247.49 Current liability accounts.

Rule 49. The following current liability accounts, payable within 1 year, will be used by the committee in determining the working capital position of a bidder:

(a) Notes payable, banks

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(b) Notes or contracts payable on construction equipment except notes due officers, employees and affiliated companies

(c) Accounts payable to subcontractors and trade accounts except accounts payable to officers, employees and affiliated companies

(d) Accrued expenses

Include wages, payroll taxes, fringe benefits, etc.

Exclude interest payable to officers, employees and affiliated companies

(e) Taxes

(i) Federal income tax liability

(Including taxes applicable to income arising from conversion to the percentage of completion method)

(ii) State of Michigan income taxes

(Including taxes applicable to income arising from conversion to the percentage of completion method)

(iii) All other taxes

(f) Pension and profit sharing contributions payable

(g) Billings on uncompleted contracts in excess of related costs

(h) Mortgages payable

(i) Other liabilities (describe)

(j) Long term unsecured liabilities

(i) An unsecured long-term liability shall be accompanied by a signed statement from the lending agency and the bidder indicating that a decrease in the long-term unsecured borrowing shall be reported to the committee immediately. In addition, the statement from the lender shall disclose the date of the loan, the termination date, a statement that the loan is free of conditions and whether it is interest or non-interest bearing.

(ii) An unsecured long-term liability, not accompanied by such a statement, shall be considered a current liability for prequalification rating purposes.

History: 1954 ACS 58, p. 12, Eff. May 15, 1969; 1954 ACS 71, p. 13, Eff. Apr. 18, 1972; 1954 ACS 83, p. 9, Eff. Apr. 16, 1975.

R 247.50 Equipment.

Rule 50. (1) For each classification for which a bidder requests prequalification, certain major items of equipment are necessary, and the ownership or lack of each affects his numerical rating. The list of equipment submitted by the prospective bidder may be checked by the committee and an evaluation determined.

(2) If a bidder owns a new construction unit, used unit or a rebuilt unit, the purchase price will be allowed in computing his equipment value and be credited as a fixed asset. For each year after purchase of the unit, the annual depreciation charge will be deducted from the purchase price in computing book value.

(3) At the written request of the bidder, the committee may consider the use of an appraised evaluation but only when this appraisal is prepared and certified by an acceptable appraisal firm. This appraisal shall be as of the close of the bidder's fiscal year and will be accepted for 1 year only. A bidder may compute the current value of his equipment for the purpose of prequalification using the straight line method of depreciation if the bidder submits a schedule of depreciation in detail and form as required by the commission together with the confidential experience questionnaire and financial statement.

(4) The value of the construction and transportation equipment for the purpose of computing the numerical rating will be the book value of the equipment as shown under fixed assets less any long term portion of notes or contracts payable on this equipment. This value is then multiplied in accordance with R 247.41.

History: 1954 ACS 58, p. 12, Eff. May 15, 1969; 1954 ACS 71, p. 14, Eff. Apr. 18, 1972; 1954 ACS 83, p. 9, Eff. Apr. 16, 1975.

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PART 5. CLASSIFICATION OF BIDDERS

R 247.51 Work classifications.

Rule 51. (1) A bidder may be classified for the performance of work in 1 or more of the following work classifications:

B Concrete pavement
Construction of portland cement concrete base and surface course

Ba Concrete pavement patching and widening

C Bituminous paving
Construction of bituminous base and surface courses, as specified in the subheadings of this rule

Ca Nonskid surface treatment
Road mix

Cb Bituminous surface courses-dense graded
All plant mix

D Aggregate construction
The construction of all non-bituminous gravel and crushed rock base and surface courses and aggregate shoulders

Da Producing aggregate material only

E Grading and drainage structures
Construction of roadways, including drainage structures and other construction incidental thereto

Ea Grading and drainage structures
Truck haul operation
Construction of roadways including drainage structures and other construction incidental thereto

F Bridges

Fa Bridges and special structures
Construction of masonry, fabricated steel or timber bridges, large culverts and grade separations, special structures, and other construction incidental thereto

Fb Structural steel
Erection of structural steel and placing reinforcing steel on bridges and grade separations and other structures incidental thereto

Fc Structural steel and prestressed concrete
Furnishing, fabricating, shop painting, and delivery of structural steel, prestressed I-beams or girders for bridges and grade separations

Fd Pumphouses
Construction of pumphouses and other structures incidental thereto

G Building moving and demolition
Building moving, demolition and other construction incidental thereto

H Landscaping
Contracts involving ornamentation of roadsides and parks and other construction incidental thereto

I Sodding, seeding, guard rail, fences
Placing of sod, seeding, erection of guard posts, guard rail, fences, and other construction incidental thereto

J Miscellaneous structures
Construction of small culverts, curb, curb and gutters, sidewalks, sewers, tiling, catch basins, manholes, and other construction incidental thereto

K Watermains and open cut sewer 6 feet deep and over
Other construction incidental thereto

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Ka Tunneling and jacking
Other construction incidental thereto
L Electrical construction
M Structure concrete repair
Preplaced aggregate material method
N Special contracts
Blasting, clearing and grubbing, pavement marking, painting, railroad track construction, signs, waterproofing, marine, others

(2) A contractor shall check on prequalification forms in the space provided the items for which it requests prequalification.

History: 1954 ACS 58, p. 12, Eff. May 15, 1969; 1954 ACS 71, p. 14, Eff. Apr. 18, 1972; 1954 ACS 83, p. 10, Eff. Apr. 16, 1975.

R 247.52 Original and additional work classifications.

Rule 52. A bidder will be classified for types of work on the basis of its experience at the time of filing the prequalification forms and financial statement. The commission may grant additional work classifications to a bidder based on written evidence submitted by the bidder that it is properly equipped and has had sufficient experience to warrant such additional work classifications.

History: 1954 ACS 58, p. 13, Eff. May 15, 1969; 1954 ACS 83, p. 11, Eff. Apr. 16, 1975.

R 247.53 Duplicate work classifications.

Rule 53. (1) When a person is a director, partner, or officer, or has a financial interest in 2 or more bidders, which, in the opinion of the committee, would have a detrimental effect on the department, the work classification for which these bidders may prequalify shall not be duplicated. A bidder shall submit on the prequalification form the names and addresses of persons acting under an assumed name, the names and addresses of all partners, the names and addresses of all officers and directors of a corporation, and the names and addresses of all persons owning more than 10% of any class of stock in any other prequalified or prequalifying corporation if that person is also an officer or a director of a prequalified or prequalifying corporation.

(2) When a bidder or a director, officer, or partner of a bidder has a financial interest in any other bidder who is prequalified or is seeking to prequalify, the name of the other bidder shall be given and the nature of the interest shall be described.

History: 1954 ACS 58, p. 13, Eff. May 15, 1969; 1954 ACS 71, p. 15, Eff. Apr. 18, 1972; 1954 ACS 83, p. 11, Eff. Apr. 16, 1975.

PART 6. BIDDING

R 247.61 Bidding procedure.

Rule 61. (1) In order to bid on any project advertised by the department, the bidder shall have prequalification in the required work classification and a net numerical rating equal to or greater than the required rating stated in the advertisement for that project. Ratings in the several work classifications are not cumulative or transferable.

(2) A prequalified bidder who has sufficient unencumbered prequalification and has met the requirements of R 247.43 shall be issued plans and proposals on any project advertised until 5:00 p.m. on the day preceding the formal opening of bids. A charge shall be made for plans or proposals furnished for each project.

(3) If a bidder is low on 2 or more projects, the total of which exceeds its numerical rating, the department shall select the project or projects for award to the bidder which will give the best financial advantage to the department after

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approval by the commission and the state administrative board. The department may give credit for the value of the named designated subcontractors or named specialty subcontractors in determining the eligibility of the bidder for award of the projects in question.

(4) A contract will not be awarded to a bidder who does not present evidence at the time of bidding that he will subcontract to a prequalified contractor, those parts of the contract dealing with work classifications in which he is not prequalified, subject to the limitation for subcontracting as provided in the department's standard specifications for highway construction.

History: 1954 ACS 58, p. 14, Eff. May 15, 1969; 1954 ACS 83, p. 11, Eff. Apr. 16, 1975.

R 247.62 Joint bidding.

Rule 62. (1) Two but not more than 3 bidders may bid jointly on a project without declaring their intention to do so before the opening of bids, if each bidder has a net numerical rating equal to or greater than the total required for the project and has met the requirements of R 247.43.

(2) A bidder with a net numerical rating equal to or greater than the total required for a project may bid jointly with not more than 2 bidders who have less than the total rating required but equal to or more than an equal proportion as determined by the number of joint bidders. The bidder with less than the total required shall declare the joint bidding arrangements before obtaining a bidding proposal. Bidders under this bidding arrangement who have met the requirements of R 247.43, shall request approval of the joint venture combination before 5:00 p.m. of the day preceding the formal opening of bids.

(3) A bidder with a net numerical rating less than the total required but with equal to or more prequalification than the direct proportion as determined by the number of joint bidders, not more than 3, may bid jointly if the intention is declared when the request is made for the bidding proposal. A bidder may obtain plans and a courtesy proposal and later may obtain a bidding proposal for joint bidding when the bidders declare their intention to bid jointly. Bidders under this bidding arrangement who have met the requirements of R 247.43, shall request approval of the joint venture combination before 5:00 p.m. of the day preceding the formal opening of bids.

(4) Two but not more than 3 bidders who have met the requirements of R 247.43 may bid jointly on a project and each be responsible for unequal shares of the work if, prior to the close of business 4 days before the opening of bids on the project, they declare in writing the percentage and classification of work they propose to do.

(5) All joint bidders shall be prequalified in the classification of work they intend to perform.

History: 1954 ACS 58, p. 14, Eff. May 15, 1969; 1954 ACS 71, p. 15, Eff. Apr. 18, 1972; 1954 ACS 83, p. 11, Eff. Apr. 16, 1975.

PART 7. HEARINGS

R 247.71 Requests and time of committee hearings.

Rule 71. (1) A bidder who wishes to contest the numerical rating or classification given it by the committee, or who wishes to contest the committee's decision not to prequalify it, has the right to a hearing before the committee if a written request for a hearing is filed with the committee within 15 days after receipt of the classification and numerical rating, or within 15 days after receipt of notice of not being prequalified. A hearing shall be held within 10 days after the written request is received by the committee.

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(2) When the committee determines that a bidder who has previously been given a satisfactory numerical rating and work classification should be disqualified or its numerical rating or work classification changed for any reason, the bidder shall have a hearing before the committee if a written request for a hearing is filed with the committee within 15 days after receipt of the notice of intent to disqualify or to change its numerical rating or its work classifications or both. A hearing shall be held within 10 days after the written request is received by the committee. Upon failure to request a hearing, the determination of the committee becomes final.

History: 1954 ACS 58, p. 14, Eff. May 15, 1969; 1954 ACS 71, p. 16, Eff. Apr. 18, 1972.

R 247.72 Representation and appearances.

Rule 72. A bidder may represent itself at a hearing or be represented by legal counsel. The department may be represented by the attorney general.

History: 1954 ACS 58, p. 15, Eff. May 15, 1969.

R 247.73 Opening statements, evidence, and cross-examination.

Rule 73. (1) The chairman of the committee shall open the hearing with a concise statement of its nature and purpose. The committee shall follow the rules of evidence applicable to circuit court proceedings. However, in addition, the committee may admit and give probative effect to any evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs.

(2) Evidence, including documents and records in possession of the committee of which it desires to avail itself, shall be offered and made a part of the record, and no other factual information or evidence shall be considered in determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(3) The bidder and the committee have the right of cross-examination, which includes the right to cross-examine the author of any document prepared for the use of the committee, and to offer it in evidence; and have the right to submit rebuttal evidence.

History: 1954 ACS 58, p. 15, Eff. May 15, 1969.

R 247.74 Judicial notice.

Rule 74. The committee may take judicial notice of facts, and take notice of general technical or scientific facts within the specialized knowledge of its members. The bidder shall be notified 5 days before the hearing of material so noticed, and shall have an opportunity to rebut the facts so noticed. The committee may use the experience, technical competence, and specialized knowledge of its members in the evaluation of the evidence presented to the committee.

History: 1954 ACS 58, p. 15, Eff. May 15, 1969.

R 247.75 Exhibits.

Rule 75. (1) Evidence to be presented, consisting of matters so complex as to make the presentation difficult to follow, may be presented in exhibit form, supplemented and explained, but not duplicated by oral testimony. Documentary exhibits shall be typed on 1 side only of pages not exceeding a 8½ inches by 11 inches, or multiples thereof, with a sufficient margin for binding, preferably 1½ inches to be left blank on left side of each page. An exhibit in excess of 8½ inches wide shall be folded to be not more than 8½ inches by 11 inches if practicable. It is

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desirable that an exhibit of 2 or more pages be stapled together and notation made at the top of the first page as to the number of pages contained in the exhibit. An exhibit shall indicate the docket number at the top of the first page and provide space for the name of the witness and the number and date of the exhibit. Exhibits shall be numbered in numerical sequence regardless of the identity of the party offering them. The number of the exhibit shall be prefixed with a letter indicating the identity of the party offering it.

(2) A party introducing documentary exhibits shall furnish 6 copies to the committee.

(3) Additional documentary evidence may be submitted subsequent to the closing of the hearing upon stipulation of the parties.

History: 1954 ACS 58, p. 15, Eff. May 15, 1969.

R 247.76 Arguments and decisions.

Rule 76. (1) After all of the evidence has been entered into the record, the bidder and the department may summarize their arguments and the hearing shall be closed.

(2) Within 30 days after the hearing, the committee shall notify the bidder, in writing, of the hearing decision and send to the bidder a copy of the hearing transcript if the bidder has been given an unsatisfactory classification and numerical rating.

History: 1954 ACS 58, p. 15, Eff. May 15, 1969; 1954 ACS 71, p. 16, Eff. Apr. 18, 1972.

R 247.77 Appeals.

Rule 77. (1) Any decision of the committee pursuant to a hearing may be appealed to the commission if written notice of appeal is filed by the bidder with the commission within 10 days after the committee renders its hearing decision. On appeal to the commission, a brief which is filed by the bidder or the department shall be filed within 7 days of filing the notice of appeal of the committee's decision.

(2) In rendering its decision, the commission shall take into consideration the entire committee hearing record, together with any briefs which may have been filed by the bidder and the department. The commission shall inform the bidder and the department of its decision on the appeal by sending a copy of its written decision within 30 days after the date on which briefs were or could have been filed.

(3) If the commission affirms the committee's decision, the bidder may seek legal remedies in the appropriate state courts as provided by statutes and court rules.

History: 1954 ACS 58, p. 15, Eff. May 15, 1969; 1954 ACS 71, p. 16, Eff. Apr. 18, 1972; 1954 ACS 83, p. 12, Eff. Apr. 16, 1975.

JUNK YARDS ADJACENT TO HIGHWAYS

(By authority conferred on the department of state highways by section 7 of Act No. 219 of the Public Acts of 1966, being §252.207 of the Michigan Compiled Laws)

R 247.101 Definitions.

Rule 1. (1) The words and phrases defined in the act have the same meaning when used in these rules.

(2) "Act" means Act No. 219 of the Public Acts of 1966, being §§252.201 to 252.211 of the Michigan Compiled Laws.

(3) "Department" means the department of state highways.

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(4) "Industrial activity" means an activity generally recognized as an industrial activity by the zoning authorities in this state, except that none of the following shall be considered an industrial activity:

(a) Outdoor advertising structures.

(b) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands.

(c) Activities normally and regularly in operation less than 3 months of the year.

(d) Transient or temporary activities.

(e) Activities not visible from the traffic lanes of the main traveled way.

(f) Activities more than 300 feet from the nearest edge of the main traveled way.

(g) Activities conducted in a building principally used as a residence.

(h) Railroad tracks, minor sidings and passenger depots.

(i) Junk yards, as defined in 23 U.S.C. §136.

(5) "Unzoned industrial area" means land occupied by a regularly used building, parking lot, storage area or processing area of an industrial activity, and land within 1,000 feet of the nearest edge of the right-of-way which meets all of the following:

(a) It is located on the same side of the highway as the principal part of the activity.

(b) It is not predominantly used for residential or commercial purposes.

(c) It is not zoned by state or local law, rule or ordinance.

History: 1954 ACS 60, p. 7, Eff. Nov. 14, 1969.

R 247.102 Inventory of junk yards and review.

Rule 2. (1) An inventory of existing junk yards within 1,000 feet of the nearest edge of the right-of-way of all interstate and primary highways will be established by the department. The department may make additions to or exclusions from the inventory on receipt of satisfactory information substantiating the desirability of such changes.

(2) Junk yard sites appearing on the inventory that are not in compliance with the act will be considered for screening, relocation of junk material, or removal after a determination has been made as to the status of each site with regard to junk yard control factors established by law and rules.

(3) Junk yard sites along highways determined in the future to be interstate or primary highways, and not now so designated, will be within the controls of the act. Such junk yard sites will be considered for screening, relocation, or removal if they meet all the conditions set forth in R 247.103.

History: 1954 ACS 60, p. 7, Eff. Nov. 14, 1969.

R 247.103 Junk yards subject to control.

Rule 3. Junk yard sites meeting all the following conditions are subject to control:

(a) Those within 1,000 feet from the nearest edge of the right-of-way of an interstate or primary highway.

(b) Those not located within areas zoned industrial by law.

(c) Those not located within areas determined to be unzoned industrial areas.

(d) Those which are visible from the main traveled way of an interstate or primary highway.

(e) Those which are not adequately screened as determined by the department.

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(f) Those containing 10 or more wrecked or partially dismantled automobiles or other junk materials.

History: 1954 ACS 60, p. 7, Eff. Nov. 14, 1969.

R 247.104 Review and determination of type of control.

Rule 4. A junk yard site subject to control will be reviewed by the department to determine:

(a) The physical possibility of adequately screening the site from visibility from the main traveled way of the highway.

(b) If the site is screenable, the most practical and economic type of screening and the location of such screening. Sites to be screened will be so determined after evaluation of the following:

(i) Cost of screening.

(ii) Cost of removal of junk to screened location, if possible.

(iii) Cost of removal or relocation of junk yard.

(c) A site not possible or economically feasible to screen will be programmed for relocation or removal with just compensation to the owners.

History: 1954 ACS 60, p. 7, Eff. Nov. 14, 1969.

R 247.105 Screening.

Rule 5. (1) Appropriate screening materials and location of screening installations will be chosen by the department. Screening materials may consist of landscape plantings, screen fences, earth mounds, or other appropriate means. In selecting screening materials, consideration will be given to existing conditions at each site so an effective and attractive screen installation can be provided for. Where adequate existing screening occurs on a portion of the site to be screened, such existing features will be incorporated in the overall screening proposed for the site.

(2) The location of screening installations will be selected with consideration given to the following factors:

(a) A location that effectively screens existing stored junk.

(b) A location that allows the use of the minimum practical amount of screening both as to length and height of installation.

(c) A location which does not adversely affect safe operation of the highway.

(d) A location that considers the operating interests of the junk yard owner consistent with screening requirements.

(e) Combination business interests, where existing, will be recognized. Screen locations may provide for unscreened business areas off the highway right-of-way. Such business areas may not be used for storage of existing or future junk.

(f) Locations near property lines will be used insofar as such locations do not require substantial additional screening.

(g) Where feasible, considering practical and economic aspects, screening will be placed on existing highway right-of-way.

(h) Where necessary, screening will be located off the highway right-of-way. Highway beautification easements will be secured for the use of land outside the highway right-of-way required to construct and maintain screening installations. Junk materials located on areas required for screening installations will be moved prior to construction of the installation.

History: 1954 ACS 60, p. 8, Eff. Nov. 14, 1969.

R 247.106 Expansion of existing, and installation of new, junk yards.

Rule 6. (1) Expansion of junk yard sites subject to the control of the act shall provide for adequate screening of all expanded storage areas at the expense of the

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owner or operator. Screening shall be of a nature compatible with the intent of the act to enhance the appearance of lands bordering public highways. Screening of such expanded operations is subject to the control of the department. A permit procedure will be maintained by the department to regulate expansion of existing junk yards.

(2) A new junk yard installed in an area subject to control by the act and as set forth in R 247.103 shall provide for adequate screening at the expense of the owner or operator. Screening shall be of a nature compatible with the intent of the act to enhance the appearance of lands bordering public highways. A permit procedure will be maintained by the department to regulate new junk yards adjacent to interstate and primary highways.

History: 1954 ACS 60, p. 8, Eff. Nov. 14, 1969.

R 247.109 Enforcement of rules.

Rule 9. If a junk yard is maintained, expanded, or established not in compliance with the act, rules, and permit procedures of the department, the noncompliance will be brought to the attention of the owner by the department. A reasonable time will be allowed for such compliance. Failure to comply with the act, rules, and permit procedures of the department will occasion the department to apply to the court of proper jurisdiction for an injunction to compel compliance therewith.

History: 1954 ACS 60, p. 8, Eff. Nov. 14, 1969.

STATE TRANSPORTATION COMMISSION

CRITICAL BRIDGE PROGRAM

(By authority conferred on the department of transportation by section 11b of Act No. 51 of the Public Acts of 1951, as amended, being §247.661b of the Michigan Compiled Laws)

R 247.151 Definitions.

Rule 1. As used in these rules:

(a) "Advisory committee" means a 9-member committee appointed by the director of the department, comprised of 3 members representing the counties, 3 members representing the department, 1 of whom shall act as chairman, and 3 members representing the cities and villages.

(b) "Bridge" means a structure with a total clear span of more than 20 feet measured along the centerline of the roadway over a stream, watercourse, or opening.

(c) "Commission" means the transportation commission.

(d) "County" means a board of county road commissioners.

(e) "Critical bridge" means a structure under jurisdiction of a highway authority, which is hazardous or inadequate in relation to the highway, road, or street it serves.

(f) "Department" means the department of transportation.

(g) "Highway authority" means the department, a county road commission, a city, or a village.

History: 1954 ACS 79, p. 5, Eff. May 22, 1974; 1954 ACS 100, p. 67, Eff. Aug. 28, 1979.

R 247.152 Procedure; annual listing.

Rule 2. (1) The department, in cooperation with the advisory committee, shall develop such procedural guides and processes as are required to administer the critical bridge program.

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(2) Annually the department, in cooperation with the advisory committee, shall identify and list in order the most critical bridges in the state by analyzing information obtained from all highway authorities in the state.

History: 1954 ACS 79, p. 5, Eff. May 22, 1974.

R 247.153 Eligibility and priority.

Rule 3. (1) In the preparation of a list of critical bridges, the department shall take into consideration the following factors:

(a) Present and future importance of the critical bridge to the highway, road, or street network of which it is a part, and importance of the highway, road, or street network to the area.

(b) Inadequate capacity calculated in accordance with methods prescribed by the department.

(c) Financial obligation and capacity of the highway authority in relation to its highway system and needs.

(2) In the determination of priority for funding, the department shall give high priority to a bridge which is an important transportation link in the area served, which has an inadequate capacity, and where the highway authority is severely limited in ability to improve the bridge through use of other funds obtained under Act No. 51 of the Public Acts of 1951, as amended, being §247.651 et seq. of the Michigan Compiled Laws, or federal aid highway funds.

History: 1954 ACS 79, p. 5, Eff. May 22, 1974; 1954 ACS 100, p. 68, Eff. Aug. 28, 1979.

R 247.154 Allocation of funds.

Rule 4. The department annually shall establish a program to allocate funds for critical bridges under the following conditions:

(a) Not more than 38.4% of the funds in any 5-year period shall be used for critical bridges on the state trunk line system.

(b) Prior to the allocation of funds, the department shall require an estimate of the cost of improving the critical bridge, including engineering, for which funds are to be used, along with details of funding the complete work.

(c) Funds allocated cannot be used for design costs, right-of-way costs, or approach construction costs except for minor approach adjustments, unless otherwise determined by the advisory committee.

(d) Allocated funds shall include an allowance up to 15% of the total contract cost for construction engineering.

History: 1954 ACS 79, p. 5, Eff. May 22, 1974; 1954 ACS 100, p. 68, Eff. Aug. 28, 1979.

R 247.155 Disbursement of funds and performance of construction engineering.

Rule 5. (1) The department shall disburse funds appropriated from the Michigan transportation fund for the critical bridge program under the following conditions:

(a) The highway authority has secured department approval of plans and costs for the proposed work. These plans shall have been prepared by a qualified engineer registered to practice professional engineering in Michigan.

(b) Funds disbursed in any 1 year may be for all or part of the eligible project costs.

(c) The allocated funds along with other financial assistance available to the responsible highway authority are adequate to complete the required critical bridge work.

(2) The department shall award and administer the construction contract unless otherwise determined by the department.

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(3) The construction engineering may be done by the engineering staff of the highway authority, by the engineer consultant retained by the highway authority, or by the department, as agreed upon by the highway authority and the department.

History: 1954 ACS 79, p. 6, Eff. May 22, 1974; 1954 ACS 100, p. 68, Eff. Aug. 28, 1979.

R 247.156 Reallocation of funds.

Rule 6. Funds allocated for work which cannot be placed under contract within 6 months of the allocation date due to delays in plan preparation or to delays in securing such supplemental funding or right-of-way as might be required may be reallocated to other work. The deletion of a project from a program by reallocation of funds shall not impair the eligibility of that project for funds the following year.

History: 1954 ACS 79, p. 6, Eff. May 22, 1974.

TRACTION DEVICES

(By authority conferred upon the department by section 710 of Act No. 300 of the Public Acts of 1949, as amended, being §257.710 of the Michigan Compiled Laws)

R 247.171 Definitions.

Rule 1. (1) "Reference standard studded tire" means size E 78-14, 4-ply, bias construction tubeless snow tire containing 90 studs (kennametal class III (16-3-585)) fixed in 6 rows around the tire with 15 studs in each row. This reference tire was chosen because it was that used in the wear tests reported in laboratory evaluation of pavement damage caused by studded tires, salt, and abrasive sand, final report, American oil company, project 6128, May 1971.

(2) "Bias construction tire" means a pneumatic tire in which the ply cords extending to the beads are laid at alternate angles substantially less than 90 degrees to the centerline of the tread.

(3) "Northern Lower Peninsula" means all counties whose southern boundaries are as far or farther north than the southern boundary of Missaukee county.

History: 1954 ACS 83, p. 12, Eff. May 7, 1975.

R 247.172 Applicability.

Rule 2. (1) These rules apply to all public streets and highways in this state.

(2) These rules do not prevent the application of any other statute or local ordinance which is more restrictive than these rules. Traction devices shall not be used pursuant to these rules unless there is compliance with other laws and ordinances.

History: 1954 ACS 83, p. 12, Eff. May 7, 1975.

R 247.173 Restrictions on use.

Rule 3. After March 31, 1975, a vehicle or special mobile equipment shall not be operated on the public streets or highways of this state on metal or plastic track or on tires which are equipped with metal that comes in contact with the surface of the road or which have a partial contact of metal or plastic with the surface of the road, except as provided in section 710 of Act No. 300 of the Public Acts of 1949, as amended, being §257.710 of the Michigan Compiled Laws, or unless the device meets the requirements set forth in these rules.

History: 1954 ACS 83, p. 12, Eff. May 7, 1975.

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R 247.174 Use of traction devices.

Rule 4. Studs or other traction devices shall not be used unless they wear either concrete or asphalt pavements, typical of those in this state, at a rate not to exceed 25% of the reference standard studded tire.

History: 1954 ACS 83, p. 13, Eff. May 7, 1975.

R 247.175 Seasonal restrictions.

Rule 5. Traction devices permitted under these rules may be used only between November 15 and April 1 of the succeeding year except in the Upper Peninsula and the northern Lower Peninsula, where, because of extreme winter snow and ice conditions, they may be used between October 1 and May 1 of the succeeding year.

History: 1954 ACS 83, p. 13, Eff. May 7, 1975.

DRIVEWAYS, BANNERS, AND PARADES ON AND OVER HIGHWAYS

(By authority conferred on the department of state highways by section 5 of Act No. 200 of the Public Acts of 1969, being §247.325 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 247.201 Definitions; B, C.

Rule 1. (1) The terms defined in Act No. 200 of the Public Acts of 1969 have the same meaning when used in these rules, except that the term "highway" means only a state trunk line highway.

(2) "Banner" means an arrangement of words, lettering or symbols or a decorative device, including a Christmas decoration, suspended over any portion of a highway or adjacent to a travel lane.

(3) "Buffer area" means a portion of a highway right-of-way adjacent to a pavement that serves as a physical barrier between highway traffic and activity on private property.

(4) "Circle driveway" means a private driveway that enters and leaves private property at 2 points within the same frontage.

(5) "Clear vision area" means land acquired or used by the agency having jurisdiction over a highway, for the purpose of maintaining unobstructed vision.

(6) "Commercial driveway" means a driveway serving a commercial establishment, industry, governmental or educational institution, hospital, church, apartment building, or other large traffic generator.

(7) "Commission" means the Michigan state highway commission.

History: 1954 ACS 64, p. 5, Eff. Nov. 6, 1970.

R 247.202 Definitions; D.

Rule 2. (1) "Department" means the Michigan department of state highways.

(2) "Directional driveway" means a driveway designed so that traffic leaving the highway is separated from traffic entering the highway with some turning movements prohibited.

(3) "Divided driveway" means a driveway designed so that traffic leaving the highway is separated from traffic entering the highway.

(4) "Dual service driveways" means 2 adjacent commercial driveways designed to facilitate traffic movement from a highway to a single private property

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by use of either driveway and a return to the highway by use of the other driveway.

History: 1954 ACS 64, p. 6, Eff. Nov. 6, 1970.

R 247.204 Definitions; F to L.

Rule 4. (1) "Field entrance" means a driveway serving a farmyard, cultivated or uncultivated field, timberland, or undeveloped land not used for industrial, commercial or residential purposes.

(2) "Frontage" means a private property line that abuts a highway right-of-way.

(3) "Limited access" means a highway right-of-way in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway except at designated access points, determined by the public authority having jurisdiction over the highway.

History: 1954 ACS 64, p. 6, Eff. Nov. 6, 1970.

R 247.206 Definitions; R to U.

Rule 6. (1) "Residential driveway" means a driveway serving a private home.

(2) "Resolution" means a resolution passed by a local governing body authorizing a specific official to apply to the department for an individual permit, or for all permits in a blanket resolution, wherein the governing body agrees to idemnify and save harmless all persons from claims of every kind arising out of operations authorized by such permit as is issued.

(3) "Right-of-way line" means a boundary between private property and public land under legal control of the agency having jurisdiction over the highway.

(4) "Utility structure driveway" means a driveway serving a utility structure, such as a pumphouse or substation, which operates automatically and requires only occasional access.

History: 1954 ACS 64, p. 6, Eff. Nov. 6, 1970.

R 247.211 Applicability.

Rule 11. (1) These rules apply to all highways under the jurisdiction of the commission.

(2) Nothing in these rules shall be construed to prevent the application of the provisions of any other statute of this state or any local ordinance which is more restrictive than these rules nor to preclude any city or village from requiring city or village permits with respect to any street or highway within its corporate limits. No permit shall be issued pursuant to these rules unless there is compliance with other provisions of law and ordinances.

History: 1954 ACS 64, p. 6, Eff. Nov. 6, 1970.

R 247.213 Permits; necessity.

Rule 13. A person, organization, or governmental unit shall not undertake or conduct any of the following activities on or along a highway unless a permit has been obtained from the department:

(a) Construct, reconstruct, relocate, or surface a driveway or related construction.

(b) Operate, use, or maintain a new driveway.

(c) Erect or suspend a banner, decoration, or similar object.

(d) Close a section of a highway to normal traffic for the purpose of staging a parade, celebration, festival, or similar activity.

History: 1954 ACS 64, p. 6, Eff. Nov. 6, 1970.

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R 247.214 Processing of permits.

Rule 14. (1) A permit shall not be issued for a driveway, banner, parade, celebration, or festival along or over a limited access highway.

(2) The department may authorize local governmental agencies to review or process applications and to perform necessary site inspections.

(3) Construction of a new driveway or reconstruction of a driveway connecting to a highway shall be allowed only after a permit has been obtained from the department. The construction or reconstruction of a driveway shall be as described in the permit and plans or drawings attached, unless the department authorizes a change.

(4) Future changes in the use of property abutting a highway, such as a change from residential to commercial use or a change in the type of commercial operation, may require changes in the number, design, or location of driveways constructed after the effective date of these rules. The property owner then shall obtain a new permit from the department.

(5) In the case of commercial, industrial, or other developments where driveway access or related activities may be complicated or where the available parking area on private property is limited, the department may be contacted in the initial site planning stages before application for a permit. An approved preliminary site plan satisfactory to all parties then may be established early in the development process.

History: 1954 ACS 64, p. 7, Eff. Nov. 6, 1970.

R 247.215 Enforcement.

Rule 15. (1) If a person fails to comply with any provisions of a permit or fails to obtain an appropriate permit, the department may halt his activity for which a permit is required until adequate corrections have been made. Costs incurred by the department in correcting failure to comply with the terms and conditions of a permit, failure to obtain a permit, or defective workmanship or materials shall be borne by the applicant or person undertaking the activity.

(2) The applicant or his representative shall perform all work and pay all costs in connection with permitted activities.

History: 1954 ACS 64, p. 7, Eff. Nov. 6, 1970.

PART 2. DRIVEWAY PERMITS

R 247.221 Applications.

Rule 21. (1) An application for a driveway permit shall be accepted from a property owner, governmental agency, lessee, or its legally authorized agent.

(2) An application for a driveway permit shall be submitted in the manner prescribed on forms supplied by the department. The application shall contain or be accompanied by a certification of either legal ownership or agency authorization. The application shall be accompanied by plans or drawings containing the information required by R 247.222 and shall include the applicable design features required by part 3.

History: 1954 ACS 64, p. 7, Eff. Nov. 6, 1970.

R 247.222 Plans or drawings.

Rule 22. Copies of a driveway permit application shall be accompanied by plans or drawings clearly indicating the following features of the site and abutting highway as the department may require:

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(a) Existing highway pavement, ditches, right-of-way and property lines, highway appurtenances, utilities, medians, if existing, and dimensions thereof.

(b) For commercial driveways, buildings, both proposed and existing, and appurtenances and dimensions thereof, including a notation as to present use of the buildings and details of internal traffic circulation, parking, and traffic signs.

(c) Design features in accordance with part 3 of driveways, tapers and right-turn lanes to be constructed, reconstructed, relocated, surfaced, resurfaced, operated, used, or maintained, including the following dimensions and features:

(i) Widths of driveways.

(ii) Radii of driveway returns and other points of curvature.

(iii) Driveway grades or profile view of drive, when necessary.

(iv) Angle of the driveway relative to the highway centerline.

(v) Dimensions of traffic islands adjacent to the highway.

(vi) Driveway surface material and traffic island surface material.

(d) Distance from each existing and proposed driveway on the site to:

(i) Nearest intersecting street, road, or highway.

(ii) Nearest driveway on adjacent properties.

(iii) Street, road, highway, or driveways opposite the site.

(iv) Property lines and property lines extended to the highway centerline.

(v) Buildings and business appurtenances on the site.

(e) Features in addition to driveways to be constructed within the highway right-of-way, including traffic control islands, curb, sidewalks, and authorized traffic signs.

(f) Existing and proposed drainage structures and controls to include:

(i) Size of drive culvert.

(ii) Type of culvert.

(iii) Type of culvert end treatment.

(iv) Grade of culvert.

(v) Direction of surface water flow on or from adjacent property.

(g) North directional arrow.

History: 1954 ACS 64, p. 7, Eff. Nov. 6, 1970.

R 247.223 Specifications and design standards.

Rule 23. The design, location, construction, and operation of driveways and related construction within the highway right-of-way shall meet requirements of the current department standard specifications for highway construction and the design standards required by part 3 of these rules. A deviation therefrom shall be consistent with current and projected traffic volumes on the highway and on the driveway, adjacent development, equivalence of materials and methods, and safety requirements of persons using the driveways and highway. The deviation shall be authorized only by the department.

History: 1954 ACS 64, p. 8, Eff. Nov. 6, 1970.

R 247.224 Conditions and limitations in permits.

Rule 24. A driveway permit is subject to the following conditions and limitations:

(a) The department reserves the right of inspection by its authorized representatives of a driveway constructed within a highway right-of-way. The permittee shall reimburse the department for the services of an on-the-job inspection which may be required for major commercial developments or other special cases.

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(b) The department or its representative may require that it be given at least 5 days' notice before commencement of an operation covered by the permit.

(c) The permittee shall have a copy of the permit available at the site during construction.

(d) The permittee shall take, provide, and maintain necessary precautions to prevent injury or damage to persons and property from operations covered by the permit, and shall use warning signs and safety devices which are in accordance with the current Michigan manual of uniform traffic control devices.

(e) The permittee shall surrender the permit and all rights thereunder when notified to do so by the department because of its need for the area covered by the permit or because of default of any provision of the permit. The department may grant the person a new permit.

(f) Altered natural drainage shall not be permitted to flow onto the highway right-of-way unless special provisions are approved by the department.

(g) The permit holder shall remove all surplus materials to an area outside of the highway right-of-way, unless the permit provides for disposal at locations within the highway right-of-way. Excavated material shall be stockpiled so it does not adversely affect the safety of traffic.

(h) Work authorized by the permit shall be completed to the satisfaction of the department on or before the completion date specified in the permit. A request for an extension of time for completion of this work shall include reasons for the request. Approval of extension of time shall be based on extenuating circumstances and absence of neglect by the permittee.

(i) The property owner or his agent shall maintain the driveways set forth in the permit.

History: 1954 ACS 64, p. 8, Eff. Nov. 6, 1970.

R 247.226 Indemnity and insurance.

Rule 26. A permittee shall save harmless the department against any claim for damages arising from his negligence or his contractor's negligence in operations covered by the permit. Certificates of insurance may be required in case of a commercial driveway to insure claims for damage or personal injury. General liability insurance carried by an applicant or contractor is acceptable.

History: 1954 ACS 64, p. 8, Eff. Nov. 6, 1970.

R 247.227 Performance bonds.

Rule 27. (1) A performance bond shall be required by a permit which is issued for construction or reconstruction of a commercial driveway to protect the department against the cost of completing construction or correcting deficiencies. A reasonable amount of coverage of the bond shall be determined by the department. A bond shall not be required from a governmental agency.

(2) Acceptable types of bonds may be a certified check or money order payable to the department or a surety bond executed on forms obtainable from the department.

History: 1954 ACS 64, p. 9, Eff. Nov. 6, 1970.

PART 3. DRIVEWAY DESIGN STANDARDS

R 247.231 Driveway locations.

Rule 31. (1) A driveway shall be so located that no undue interference with the free movement of highway traffic will result. A driveway shall be so located also to provide the most favorable vision and grade conditions possible for motorists

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using the highway and the driveway consistent with development of the site considering proper traffic operations and safety.

(2) A driveway, including the radii but not including the right-turn lanes and tapers, shall be located entirely within the area between the permittee's property lines extended to the centerline of the highway. A driveway radius may extend outside of that area only if the adjacent property owner certifies in writing that he will permit such extension.

(3) If the driveway is to be located adjacent to a highway intersection, the following shall apply:

(a) If the intersecting highway is curbed, the point of curvature of the driveway radius shall be at least 20 feet from the point of curvature of the intersecting highway radius.

(b) If the intersecting highway is uncurbed, the point of curvature of the driveway radius shall be at least 50 feet from the edge of pavement of the intersecting highway.

(c) When an existing highway or driveway is reconstructed or the requirements in subdivisons (a) or (b) cannot be applied, the driveway radius shall not encroach upon the intersection radius unless such encroachment is physically unavoidable.

(4) A driveway shall not be constructed along the acceleration or deceleration lanes and tapers connecting to interchange ramp terminals, unless no other reasonable access point is available.

History: 1954 ACS 64, p. 9, Eff. Nov. 6, 1970.

R 247.232 Clear vision and buffer areas.

Rule 32. (1) At an intersection or railroad crossing where the department owns limited access right-of-way to provide a clear vision area, a driveway shall not enter or cross that clear vision area. At an intersection or railroad crossing where the department has an easement for a clear vision area, a driveway shall not enter or cross that clear vision area if another reasonable access point is available.

(2) Adjacent to and on both sides of a driveway, a buffer area between the right-of-way line and the pavement edge shall be used, as determined by the department, to provide a physical barrier between highway traffic and activity on private property. A buffer area is needed to provide an unobscured vision area and to prevent potentially hazardous movement of vehicles, especially at undesirable angles of approach, from and to the highway. The buffer area shall consist of a lawn area, a low shrub area, a ditch, or equivalent. Where encroachment of vehicle parking on the buffer area takes place or may take place, the department may require the buffer area to be established by guardrail, guard posts, curb, or equivalent.

History: 1954 ACS 64, p. 9, Eff. Nov. 6, 1970.

R 247.233 Design features.

Rule 33. The design features described in this rule and illustrated in figure 1 shall be used by the applicant in dimensioning a proposed driveway or driveway system on plans accompanying the driveway permit application. The dimensions to be used for various driveway design features, shown as a standard with a working range of dimensions, are given in tables 1 to 7, R 247.237 to R 247.249. These standard dimensions shall be used unless conditions warrant a deviation. The department may specify particular dimensions so a particular driveway system will accommodate vehicle movements normally expected without creating undue congestion or hazard on the highway or to provide reasonable access. The letters in the following design features refer to features in figure 1:

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(a) Intersecting angle, A, the clockwise angle from a highway centerline to a driveway reference line which is the centerline or the edge of the driveway.

(b) Driveway width, B, the distance between driveway edges of pavement or edges of the gravel surface measured at the point where the edges of the driveway become parallel, point b in figure 1. If the right-of-way line is so close to the pavement that point b falls on the applicant's property, then the width of the driveway at the right-of-way line shall be based on the projected driveway width.

(c) Entering radius, C, the radius of a driveway edge curve on the right side of a vehicle entering the applicant's property.

(d) Exiting radius, D, the radius of a driveway edge curve on the right side of a vehicle leaving the applicant's property.

(e) Curb ending, E, the length of the height transition of the driveway curb from ground level to full curb height along an uncurbed highway. This curb transition may be 10 feet minimum.

(f) Right-turn lane length, F, the length of an auxiliary lane constructed preceding the driveway to accommodate right-turn traffic entering the applicant's property.

(g) Right-turn lane width, G, the width edge-to-edge of a right-turn lane, or the width edge-to-edge at the full width of entering and exiting tapers.

(h) Entering taper, H, the length of a pavement widening, preceding the driveway for a right-turn lane or taper.

(i) Exiting taper, J, the length of a pavement narrowing, following the driveway.

(j) Entrance drive width, K, the width of the portion of a divided or a directional driveway that is used by a vehicle entering the applicant's property.

(k) Exit drive width, L, the width of the portion of a divided or a directional driveway that is used by a vehicle leaving the applicant's property.

(l) Island width, M, the edge-to-edge distance between an entrance drive and an exit drive.

(m) Island length, N, the distance between ends of the island, measured parallel to the entrance drive.

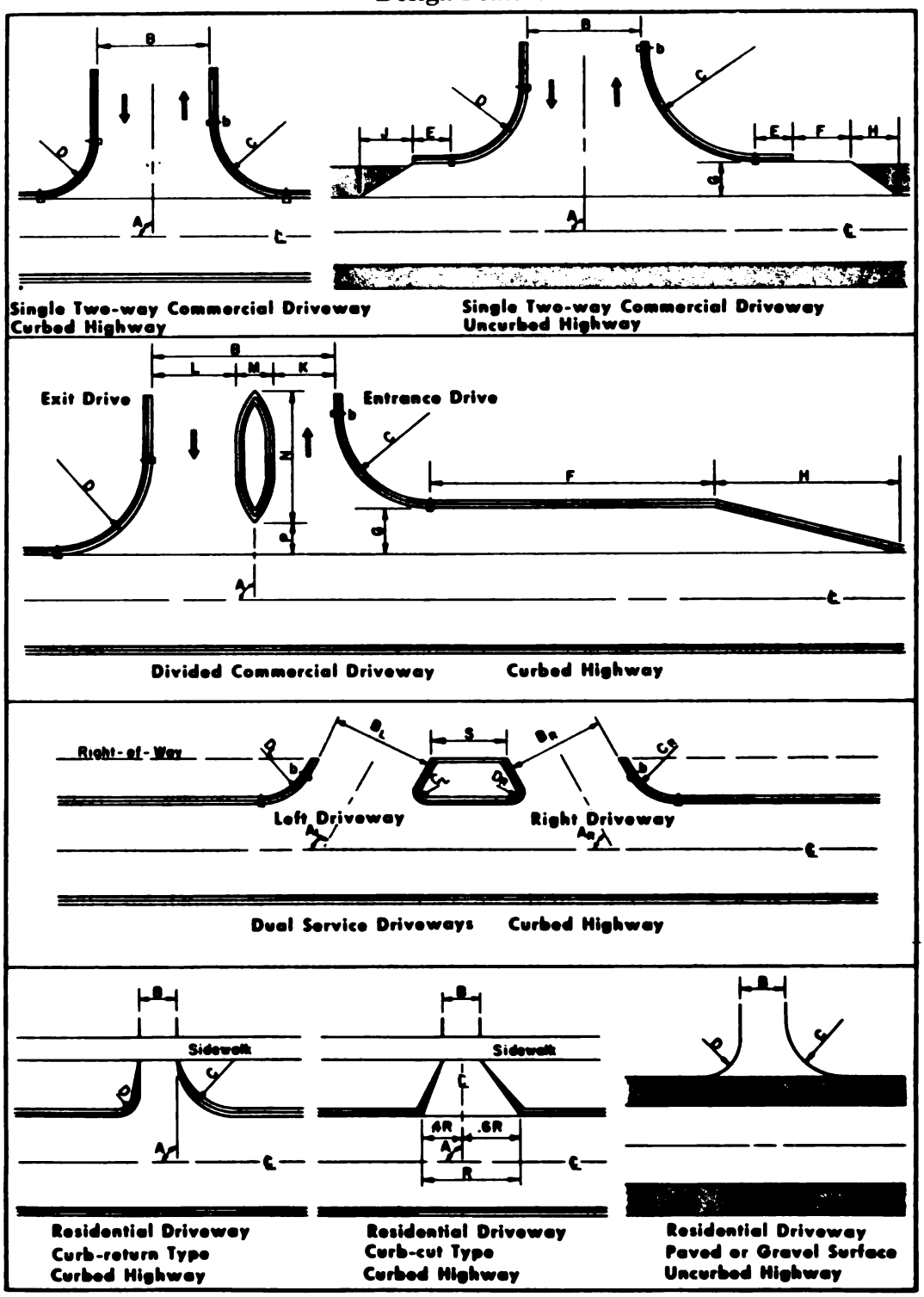
(n) Nose offset, P, the distance between the edge of pavement and the traffic island of a divided or directional driveway.

(o) Curb cut, R, the length of the opening along a highway curb for a straight-sided residential driveway.

(p) Distance between driveways, S, the inside distance between 2 adjacent driveways measured along a highway right-of-way line.

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FIGURE 1
Design Features



SKETCHES ARE NOT DRAWN TO SCALE

History: 1954 ACS 64, p. 9, Eff. Nov. 6, 1970.

R 247.234 Commercial driveways; permits.

Rule 34. A permit application for a commercial driveway shall specify the driveway system requested, including the number and type: 2-way, 1-way,

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divided, dual service or directional. The department may approve the requested system or may require changes in it to insure safe conditions and necessary spacing between driveways, based on anticipated traffic volumes on the driveways and on the highway, type of traffic to use the driveways, type of roadside development and other operational considerations.

History: 1954 ACS 64, p. 12, Eff. Nov. 6, 1970.

R 247.235 Commercial driveways; consolidation.

Rule 35. Adjacent property owners may consolidate their commercial driveways by using either a frontage road or a joint driveway system. If the department approves such a system, a driveway permit shall be issued to all property owners concerned and shall state that there is an agreement that all properties shall have access to the highway via the frontage road and the joint driveway system.

History: 1954 ACS 64, p. 12, Eff. Nov. 6, 1970.

R 247.236 Commercial driveways; alteration of dimensions.

Rule 36. If the highway carries 1-way traffic, the dimensions given in R 247.241 and R 247.242 may be altered so that the prohibited movements are discouraged. If the driveway system is on the left-hand side of a 1-way highway, the dimensions used shall be based on same principles as used on right-hand side driveways.

History: 1954 ACS 64, p. 12, Eff. Nov. 6, 1970.

R 247.237 Commercial driveways; right-turn lanes.

Rule 37. The applicant shall provide right-turn lanes or tapers as part of a commercial driveway system if the department determines that such right-turn lanes or tapers are required to minimize congestion or hazard on the highway caused by vehicles entering the applicant's driveways. A right-turn lane shall be preceded by a taper. The design feature dimensions of a right-turn lane and taper shall conform to those given in table 1.

TABLE 1

COMMERCIAL RIGHT-TURN LANE AND TAPERS

Design Features		Curbed Highway		Uncurbed Highway	
		Standard	Range	Standard	Range
Curb Ending	E	not applicable		10 ft	no range
Right-turn Lane Length	F	as determined by the department			
Right-turn Lane Width	G	12 ft	10 to 15 ft	12 ft	10 to 15 ft
Entering Taper	H	150 ft *	50 to 150 ft	150 ft	50 to 150 ft
Exiting Taper	J	not applicable		50 ft	50 to 150 ft

* If a right-turn lane is used, the Entering Taper standard shall be 50 ft. Without a right-turn lane, the Entering Taper standard shall be 150 ft.

The standard shall be used unless engineering judgment determines that another dimension within the range is more suitable for a particular site or special condition and is approved by the department.

History: 1954 ACS 64, p. 12, Eff. Nov. 6, 1970.

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R 247.241 Two-way commercial driveways.

Rule 41. The design feature dimensions of a 2-way commercial driveway shall conform to those given in table 2.

TABLE 2

TWO-WAY COMMERCIAL DRIVEWAY

Design Features		Curbed Highway		Uncurbed Highway	
		Standard	Range	Standard	Range
Intersecting Angle	A	90°	60 to 120°	90°	60 to 120°
Driveway Width	B	30 ft	12 to 50 ft	30 ft	15 to 50 ft
Entering Radius	C	20 ft	5 to 50 ft	30 ft	5 to 50 ft
Exiting Radius	D	15 ft	5 to 50 ft	20 ft	5 to 50 ft

The standard shall be used unless engineering judgment determines that another dimension within the range is more suitable for a particular site or special condition and is approved by the department.

History: 1954 ACS 64, p. 12, Eff. Nov. 6, 1970.

R 247.242 One-way commercial driveways.

Rule 42. The design feature dimensions of a 1-way commercial driveway shall conform to those given in table 3.

TABLE 3

ONE-WAY COMMERCIAL DRIVEWAY

Design Features			Curbed Highway		Uncurbed Highway	
			Standard	Range	Standard	Range
Distance Between Driveways		S	not applicable	40 to 500 ft	not applicable	40 to 500 ft
Intersecting Angle		A	90°	60 to 120°	90°	60 to 120°
Driveway Width		B	16 ft	16 to 30 ft	16 ft	16 to 30 ft
One-way In	Entering Radius	C_I	20 ft	15 to 50 ft	20 ft	15 to 50 ft
	Exiting Radius	D_I	10 ft	5 to 15 ft	5 ft	5 to 15 ft
One-way Out	Entering Radius	C_O	10 ft	5 to 15 ft	5 ft	5 to 15 ft
	Exiting Radius	D_O	20 ft	15 to 50 ft	20 ft	15 to 50 ft

The standard shall be used unless engineering judgment determines that another dimension within the range is more suitable for a particular site or special condition and is approved by the department.

History: 1954 ACS 64, p. 13, Eff. Nov. 6, 1970.

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R 247.243 Divided commercial driveways.

Rule 43. A divided commercial driveway shall have a curbed island separating the entrance drive and the exit drive. The radii forming the edges on this island shall be designed to accommodate the largest vehicle that will normally use the driveway. The minimum area of the island shall be 50 square feet. The design feature dimensions of a divided commercial driveway shall conform to those given in table 4.

TABLE 4

DIVIDED COMMERCIAL DRIVEWAY

Design Features		Curbed Highway		Uncurbed Highway	
		Standard	Range	Standard	Range
Intersecting Angle	A	90°	75 to 105°	90°	75 to 105°
Driveway Width	B	48 ft	42 to 90 ft	48 ft	42 to 90 ft
Entering Radius	C	25 ft	5 to 50 ft	25 ft	5 to 50 ft
Exiting Radius	D	25 ft	5 to 50 ft	20 ft	5 to 50 ft
Entrance Drive Width	K	16 ft	16 to 30 ft	16 ft	16 to 30 ft
Exit Drive Width	L	22 ft	16 to 30 ft	22 ft	16 to 30 ft
Island Width	M	10 ft	10 to 30 ft	10 ft	10 to 30 ft
Nose Offset	P	8 ft	2 to 10 ft	14 ft	12 to 17 ft
Island Length	N	35 ft	20 to 150 ft	35 ft	20 to 150 ft

The standard shall be used unless engineering judgment determines that another dimension within the range is more suitable for a particular site or special condition and is approved by the department.

History: 1954 ACS 64, p. 13, Eff. Nov. 6, 1970.

R 247.244 Dual service driveways.

Rule 44. To facilitate vehicle movements between a highway and private property when the major vehicle movement at a commercial establishment is approximately parallel to the highway, such as at a service station or drive-in bank, the department may permit dual service driveways. The design feature dimensions of dual service driveways shall conform to those given in table 5.

History: 1954 ACS 64, p. 14, Eff. Nov. 6, 1970.

R 247.245 Directional commercial driveways.

Rule 45. A directional commercial driveway is a special case and the driveway shall be designed individually to facilitate the desired turning movements and to discourage prohibited movements. Radii shall be as approved by the department, based on the driveway intersecting angle and on the turning path of the largest vehicle that will normally use the driveway.

History: 1954 ACS 64, p. 14, Eff. Nov. 6, 1970.

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R 247.247 Residential driveways; number and separation.

Rule 47. The number of residential driveways permitted shall be determined as follows:

(a) One residential driveway shall be permitted for each platted lot or for unplatted residential property with less than 100 feet of frontage.

(b) One additional residential driveway may be permitted for residential property for each 70 feet of frontage in excess of the first 100 feet of frontage.

(c) Two residential driveways may be permitted on the same property, in lieu of the requirements of paragraph (b), to serve a circle driveway if the frontage of the property is 80 feet or more.

(d) Residential driveways on the same property shall be at least 45 feet apart, center-to-center.

TABLE 5

DUAL SERVICE DRIVEWAYS

Design Features			Curbed Highway		Uncurbed Highway	
			Standard	Range	Standard	Range
Right Driveway	Intersecting Angle	A_R	60°	45 to 90°	60°	45 to 90°
	Entering Radius	C_R	15 ft	5 to 50 ft	20 ft	5 to 50 ft
	Exiting Radius	D_R	10 ft	5 to 25 ft	5 ft	5 to 25 ft
Left Driveway	Intersecting Angle	A_L	120°	90 to 135°	120°	90 to 135°
	Entering Radius	C_L	10 ft	5 to 25 ft	5 ft	5 to 25 ft
	Exiting Radius	D_L	15 ft	5 to 50 ft	20 ft	5 to 50 ft
Driveway Width		B	30 ft	12 to 50 ft	30 ft	15 to 50 ft
Distance Between Driveways		S	20 ft	10 to 150 ft	20 ft	10 to 150 ft

The standard shall be used unless engineering judgment determines that another dimension within the range is more suitable for a particular site or special condition and is approved by the department.

History: 1954 ACS 64, p. 14, Eff. Nov. 6, 1970.

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R 247.248 Residential driveway dimensions.

Rule 48. The design feature dimensions of a residential driveway shall conform to those given in table 6.

TABLE 6

RESIDENTIAL DRIVEWAY					
Design Features		Curbed Highway		Uncurbed Highway	
		Standard	Range	Standard	Range
Intersecting Angle	A	90°	70 to 110°	90°	70 to 110°
Driveway Width	B	10 ft	8 to 24 ft	12 ft	8 to 24 ft
Entering Radius	C	15 ft	5 to 15 ft	15 ft	5 to 20 ft
Exiting Radius	D	6 ft	5 to 15 ft	10 ft	5 to 20 ft
Curb Cut	R	26 ft	20 to 40 ft	not applicable	
The standard shall be used unless engineering judgment determines that another dimension within the range is more suitable for a particular site or special condition and is approved by the department.					

History: 1954 ACS 64, p. 14, Eff. Nov. 6, 1970.

R 247.249 Field entrances and utility structure driveways.

Rule 49. (1) One field entrance may be permitted for each 1,000 feet of frontage of cultivated land, timberland or undeveloped land. Additional driveways may be permitted when a single driveway will not provide adequate access due to topographic conditions.

(2) The design feature dimensions of a field entrance and of a utility structure driveway shall conform to those given in table 7.

TABLE 7

FIELD ENTRANCE AND UTILITY STRUCTURE DRIVEWAY					
Design Features		Curbed Highway		Uncurbed Highway	
		Standard	Range	Standard	Range
Intersecting Angle	A	90°	70 to 110°	90°	70 to 110°
Driveway Width	B	20 ft	15 to 40 ft	20 ft	15 to 40 ft
Entering Radius	C	not applicable		20 ft	5 to 40 ft
Exiting Radius	D	not applicable		20 ft	5 to 40 ft
Curb Cut	R	26 ft	20 to 50 ft	not applicable	
The standard shall be used unless engineering judgment determines that another dimension within the range is more suitable for a particular site or special condition and is approved by the department.					

History: 1954 ACS 64, p. 15, Eff. Nov. 6, 1970.

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R 247.251 Surfacing and curbing along curbed highways.

Rule 51. If a highway is curbed, the following driveway surfacing and curbing requirements apply:

(a) A commercial driveway shall be paved and curbed to either the right-of-way line or to the point of curvature between the driveway edge and the larger radius, point b in figure 1, as determined by the department.

(b) A residential driveway shall be paved between the edge of the pavement and the existing or proposed sidewalk. If there is no existing or proposed sidewalk, the surfacing shall extend at least 10 feet from the edge of the pavement. For a residential driveway, either curb cuts or curb returns shall be required as determined by the department, based on the current department standards for curb and gutter.

History: 1954 ACS 64, p. 16, Eff. Nov. 6, 1970.

R 247.252 Surfacing and curbing along uncurbed highways.

Rule 52. If a highway is uncurbed, the following driveway surfacing and curbing requirements apply:

(a) A commercial driveway shall be paved and curbed to either the right-of-way line or to the point of curvature between the driveway edge and the larger radius, point b in figure 1, except a commercial driveway may be uncurbed where there is a proper ditch and other adequate roadside control or delineation, as determined by the department. The curb ending adjacent to the highway shall be located at least 13.5 feet from and parallel to the edge of the pavement.

(b) A low volume commercial driveway along a low volume highway shall be paved, but the paving may be delayed as mutually agreed upon by the applicant and the department.

(c) A residential driveway may be paved or surfaced with stabilized gravel and may be curbed or uncurbed.

History: 1954 ACS 64, p. 16, Eff. Nov. 6, 1970.

R 247.253 Surfacing and curbing of field entrances and utility structure driveways.

Rule 53. A field entrance or a utility structure driveway may be surfaced with stabilized gravel or with sod over a stable base and may be uncurbed, as determined by the department.

History: 1954 ACS 64, p. 16, Eff. Nov. 6, 1970.

R 247.254 Surface materials and thickness.

Rule 54. The surface of a paved driveway, excluding right-turn lanes, shall be concrete, bituminous or equivalent surfacing material. The thickness of the surface and the base to be used shall be sufficient to provide the bearing capacity needed to carry the proposed traffic loads. A 2¼-inch, 250 pounds per square yard, bituminous mix on 8 inches of compacted gravel, 8 inches of unreinforced concrete or equivalent surfacing material which meets current department standard specifications for highway construction is acceptable for normal driveway traffic loads over stable soil.

History: 1954 ACS 64, p. 16, Eff. Nov. 6, 1970.

R 247.255 Right-turn lanes and tapers.

Rule 55. (1) The pavement of a right-turn lane and accompanying tapers shall match the highway pavement, unless the department permits the use of an equivalent pavement.

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(2) The cross slope of a right-turn lane and tapers shall be:

(a) A continuation of the cross slope of the highway if the highway is curbed.

(b) Equal to the shoulder slope if the highway is uncurbed.

History: 1954 ACS 64, p. 17, Eff. Nov. 6, 1970.

R 247.256 Shoulders.

Rule 56. (1) The surface of the shoulder adjacent to a right-turn lane and tapers shall be of the same material as the highway shoulder and conform to the current department standard specifications for highway construction.

(2) If the distance between 2 paved commercial driveways serving the same property is less than 100 feet, measured between adjacent ends of the curb endings, the applicant shall pave the shoulder between the driveways.

History: 1954 ACS 64, p. 17, Eff. Nov. 6, 1970.

R 247.259 Driveway curb details.

Rule 59. (1) The driveway curb shall either match the existing highway curb or shall conform to the current department standards for curb and gutter.

(2) The driveway curb height shall be constant if there is no existing or proposed sidewalk or if an inclined sidewalk is permitted by the department.

(3) The driveway curb height may be tapered to zero height at the sidewalk if the driveway grade meets the grade of an existing or proposed sidewalk.

History: 1954 ACS 64, p. 17, Eff. Nov. 6, 1970.

R 247.261 Drainage.

Rule 61. (1) A driveway shall be constructed so that it does not adversely affect the highway drainage. The drainage and the stability of the highway subgrade shall not be altered by driveway construction or roadside development.

(2) Drainage from adjacent parking or storage areas on private property in excess of existing drainage shall not be discharged into the highway drainage system.

(3) Culvert pipe shall be of a size adequate to carry the anticipated natural flow of the ditch. The culvert shall be no smaller than the nearest upstream culvert nor less than 12 inches inside diameter. A culvert, catch basin, drainage channel and other drainage structure required within the highway right-of-way shall be manufactured or constructed and installed in accordance with the current department standard specifications for highway construction. The minimum length of the culvert may be determined as the sum of the distance between driveway edges, measured along the ditch line, plus the distances needed to accommodate an embankment slope not to exceed 1 foot vertical for 6 feet horizontal on both sides of the driveway.

History: 1954 ACS 64, p. 17, Eff. Nov. 6, 1970.

R 247.263 Profile.

Rule 63. A driveway profile shall be determined using the following criteria:

(a) If the highway is uncurbed, the grade of the driveway between the highway edge of pavement and the edge of the shoulder shall conform to the slope of the shoulder.

(b) If the highway is uncurbed or if the sidewalk is more than 10 feet from the edge of the pavement or if there is no sidewalk:

(i) The grade of a 2-way, 1-way or divided commercial driveway shall not exceed 1.5% for a minimum distance of 25 feet from the edge of the pavement. Beyond this distance, the grade shall not exceed 8%.

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(ii) The grade of a residential or utility structure driveway or field entrance shall not exceed 10%.

(c) If the highway is curbed and if the sidewalk is 10 feet or less from the edge of pavement, the grade of a driveway, except a directional driveway, shall be the grade required to meet the sidewalk elevation; but if that grade would exceed the maximums specified in subdivision (b), the sidewalk shall be either tilted or inclined.

(d) The grade of a directional driveway shall be designed so to provide vision of the highway edge of pavement and the driveway surface for a distance of 100 feet along the driveway. For a driveway on an upgrade towards the highway, a grade of 1.5% for a distance of 100 feet from the edge of the pavement is acceptable. Beyond this distance, the grade shall not exceed 4% and the difference in grades where there is a change of grade shall not exceed 3%.

(e) Vertical curves, with a minimum length of 15 feet, shall be provided at a change of grade of 4% or more.

(f) If the sidewalk elevation has to be adjusted to meet the driveway, the department may require that the sidewalk be inclined at a rate not to exceed 1 foot vertical for every 24 feet horizontal.

History: 1954 ACS 64, p. 17, Eff. Nov. 6, 1970.

R 247.265 Parking and storage.

Rule 65. Adequate storage for vehicles parking or waiting to be serviced shall be provided so as not to interfere with pedestrian movements, vision requirements, or traffic operations on the highway.

History: 1954 ACS 64, p. 18, Eff. Nov. 6, 1970.

R 247.267 Traffic signs and markings.

Rule 67. A permittee shall provide and properly maintain traffic signs and pavement markings which the department determines necessary, subject to local ordinances, for proper operation of the driveway. Only those traffic signs and pavement markings approved by the department may be used within the highway right-of-way. Signs and pavement markings shall conform to the current Michigan manual of uniform traffic control devices.

History: 1954 ACS 64, p. 18, Eff. Nov. 6, 1970.

PART 4. BANNER PERMITS

R 247.271 Permittees.

Rule 71. A permit for the installation of banners to be placed within or over a highway right-of-way may be issued by the department only to the governing body of a city, village, or township.

History: 1954 ACS 64, p. 18, Eff. Nov. 6, 1970.

R 247.272 Application forms and contents.

Rule 72. (1) An application for a permit for the installation of a banner shall be in the manner prescribed on forms supplied by the department.

(2) An application shall include the following information:

(a) Activity in connection with which the banners are to be placed.

(b) Location of the proposed installation, including distance to overhead traffic control devices.

(c) Description of the banners, including any legend or symbol thereon.

(d) Height of an overhead banner at its lowest point above the pavement.

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(e) Dates on which the banner will be installed and removed. This period shall not exceed a time period specified by the department. An acceptable period of time for banners, other than Christmas decorations, to be in place is 3 weeks, and an acceptable duration for Christmas decorations to be in place is 6 weeks.

(f) Such other information as the department may require.

History: 1954 ACS 64, p. 18, Eff. Nov. 6, 1970.

R 247.273 Local government resolutions.

Rule 73. An application shall be accompanied by a copy of a resolution from the local governing body designating an authorized official of the city, village, or township who has authority to make the application, unless a blanket resolution, which has the same effect and authorizes the same conditions as an individual resolution but covers issuance of permits for a specified period of time, is on file with the department. Appropriate forms for local governmental resolutions and blanket resolutions may be supplied by the department.

History: 1954 ACS 64, p. 18, Eff. Nov. 6, 1970.

R 247.275 Design and placement.

Rule 75. (1) The design, method of installation, and location of banners shall not endanger persons using the highway or unduly interfere with the free movement of traffic.

(2) An overhead banner shall have a minimum bottom height of 18 feet above the pavement, shall not be placed closer than 10 feet on either side of traffic signals, and shall not be placed so as to obstruct a clear view of traffic signals or other traffic control devices.

History: 1954 ACS 64, p. 18, Eff. Nov. 6, 1970.

R 247.276 Contents of banners.

Rule 76. (1) A banner shall not have displayed thereon any legend or symbol which may be construed to advertise, promote the sale of, or publicize any merchandise or commodity, or to be political in nature.

(2) A banner shall not have displayed thereon any legend or symbol which is or purports to be an imitation of or resembles, or which may be mistaken for, a traffic control device, or which attempts to direct the movement of traffic.

(3) Decorations shall not include flashing lights that may be distracting to motorists.

History: 1954 ACS 64, p. 19, Eff. Nov. 6, 1970.

R 247.278 Duties of local governments.

Rule 78. A city, village, or township receiving a permit shall faithfully fulfill permit requirements and shall indemnify and save harmless the department from claims of every kind arising out of the use of an issued permit.

History: 1954 ACS 64, p. 19, Eff. Nov. 6, 1970.

R 247.279 Cancellation of permits.

Rule 79. A permit for the installation of a banner may be cancelled by the department if the installation becomes dangerous to motorists or unduly interferes with the free movement of traffic.

History: 1954 ACS 64, p. 19, Eff. Nov. 6, 1970.

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PART 5. PARADE, CELEBRATION, OR FESTIVAL HIGHWAY CLOSURE PERMITS

R 247.281 Permittees.

Rule 81. A permit granting permission for the temporary closure of a highway for a reasonable length of time for a parade, celebration, or festival may be issued by the department only to the governing body of a city, village, or township.

History: 1954 ACS 64, p. 19, Eff. Nov. 6, 1970.

R 247.282 Application forms.

Rule 82. An application for a permit to close or partially close a highway for a parade, celebration, or festival shall be in the manner prescribed on forms supplied by the department.

History: 1954 ACS 64, p. 19, Eff. Nov 6, 1970.

R 247.283 Application contents and resolutions.

Rule 83. An application shall state the nature of the activity for which the permit is requested, the dates and times it is proposed to close and reopen the highway to traffic, and such other information as the department may require. The reasonable period of time shall be approved by the department. An application shall be accompanied by a copy of a resolution from the city, village, or township requesting permission for the closure or partial closure.

History: 1954 ACS 64, p. 19, Eff. Nov. 6, 1970.

R 247.284 Permit conditions.

Rule 84. A permit shall be issued subject to the following conditions:

(a) The closure or partial closure and the use of a detour route shall not unduly interfere with the safe and free movement of traffic.

(b) A suitable alternate location is not available for the parade, celebration, or festival which is more acceptable for traffic safety and causes less interruption of traffic.

(c) A closure or partial closure normally shall be allowed during daylight hours only. When temporary nighttime closure is permitted points of potential hazard, barricades and warning traffic signs shall be lighted at the permittee's expense. The lighting shall be in accordance with requirements and specifications of the department.

History: 1954 ACS 64, p. 19, Eff. Nov. 6, 1970.

R 247.285 Traffic control devices.

Rule 85. (1) Traffic control devices installed in conjunction with the closure or partial closure and the detour route shall conform to the provisions of the current department manual of uniform traffic control devices.

(2) Required traffic control devices may be furnished and installed either by the local governing body or by the department. Costs arising from the installation, maintenance, and removal of such devices shall be borne by the permittee.

(3) The local governing body shall provide necessary police supervision, establish and post necessary detour signs, and assume liability for damage claims which may arise as a result of the closure or partial closure.

(4) The closure or partial closure shall not be for the purpose of allowing private commercial activities, such as advertising or sale of goods, wares, or produce.

History: 1954 ACS 64, p. 19, Eff. Nov. 6, 1970.

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PART 9. HEARINGS AND APPEALS

R 247.351 Requests and time of hearings.

Rule 151. (1) After a permit application has been denied, or before the department may revoke a driveway permit for failure to comply with any provision of the permit, the person or agency has the right to a hearing before an officer appointed by the department if a written request for hearing is filed with the department within 30 days after receipt of the denial of application or notice of intent to revoke a permit.

(2) A hearing shall be held within 30 days after the request is received by the department. The department shall notify the person or agency of the hearing date, time, and place at least 10 days before the hearing.

(3) A driveway permit revocation is effective either 30 days after the person or agency receives a notice of intent to revoke the permit in the absence of a hearing request, or after the hearing and appeal procedures affirming the department's revocation.

History: 1954 ACS 64, p. 20, Eff. Nov. 6, 1970.

R 247.352 Representation.

Rule 152. A person may represent himself at a hearing or be represented by legal counsel and technical counsel. The department may be represented by the attorney general.

History: 1954 ACS 64, p. 20, Eff. Nov. 6, 1970.

R 247.353 Opening statements, evidence, and cross-examination.

Rule 153. (1) The hearing officer shall open the hearing with a concise statement of its nature and purpose. He shall follow the rules of evidence applicable to circuit court proceedings, but may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs.

(2) Evidence, including documents and records in possession of the department, which it desires to present, shall be accepted and made a part of the record. Documentary evidence may be received in the form of copies or excerpts, or may be incorporated by reference.

(3) The person and the department have the right of cross-examination which includes the right to cross-examine the author of any document prepared for the use of the department and to offer the document as evidence, and have the right to submit rebuttal evidence.

History: 1954 ACS 64, p. 20, Eff. Nov. 6, 1970.

R 247.354 Official notice and evaluation of evidence.

Rule 154. The hearing officer may take official notice of judicially cognizable facts, and of general technical and scientific facts within his specialized knowledge. The parties shall be notified at least 5 days before the hearing of material so noticed, and shall have an opportunity to rebut the facts so noticed. The officer may use his experience, technical competence and specialized knowledge in the evaluation of the evidence presented to him.

History: 1954 ACS 64, p. 20, Eff. Nov. 6, 1970.

R 247.355 Exhibits.

Rule 155. (1) Evidence to be presented, consisting of matters so complex as to make testimony difficult to follow, may be presented in exhibit form, supple-

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mented and explained, but not duplicated by oral testimony. Documentary exhibits shall be typed on 1 side only on pages not exceeding 8½ by 11 inches, or multiples thereof, with a sufficient margin for binding on the left side of each page. An exhibit in excess of these dimensions shall be folded to be not more than 8½ inches by 11 inches. An exhibit of 2 or more pages shall be stapled together and notation made at the top of the first page of the number of pages contained in the exhibit. An exhibit shall indicate the docket number at the top of the first page and provide space for the name of the witness, the number and the date of the exhibit. Exhibits shall be numbered in numerical sequence regardless of the identity of the party offering them.

(2) A person introducing documentary exhibits shall furnish 6 copies to the hearing officer.

(3) Additional documentary evidence may be submitted after the closing of the hearing upon stipulation of the parties.

History: 1954 ACS 64, p. 20, Eff. Nov. 6, 1970.

R 247.356 Arguments and decisions.

Rule 156. (1) After all the evidence has been entered in the record the person and the department representative may summarize their arguments after which the hearing shall be closed.

(2) Within 5 days after the hearing, the department shall notify the person in writing of the hearing decision and send to the person a copy of the hearing transcript if either the person's application for a permit is denied, or the department's revocation of permit is upheld.

History: 1954 ACS 64, p. 21, Eff. Nov. 6, 1970.

R 247.357 Appeals.

Rule 157. (1) A decision of the hearing officer may be appealed to the commission by written notice of appeal filed with the commission within 5 days after the officer renders his decision. On appeal to the commission, briefs may be filed by the person and by the department within 7 days after filing the notice of appeal.

(2) In rendering its decision, the commission shall consider the entire hearing record and briefs which may have been filed. The commission shall inform the person and the department of its decision by filing a copy of its written decision within 7 days after the date on which original briefs were filed, and by mailing a copy of its decision to the appellant.

(3) If the commission affirms the hearing officer's decision the party may petition for judicial review in the appropriate state court.

History: 1954 ACS 64, p. 21, Eff. Nov. 6, 1970.

RELOCATION ASSISTANCE

(By authority conferred on the state highway commission by section 2 of Act No. 31 of the Public Acts of 1970 and section 7 of Act No. 227 of the Public Acts of 1972, being §§252.142 and 213.326 of the Michigan Compiled Laws)

R 247.401 Definitions.

Rule 1. (1) "Commission" means the state highway commission.

(2) "Department" means the department of state highways and transportation.

(3) "Uniform act" means the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646.

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(4) "Aggrieved relocatee" means a person who may be entitled to a determination pursuant to the uniform act who is dissatisfied with the department's determination with regard to their eligibility for benefits or the amount of the benefits.

(5) "Person" means an individual, partnership, corporation, or association.

History: 1954 ACS 79, p. 6, Eff. May 22, 1974.

R 247.402 Aggrieved relocatee's options.

Rule 2. (1) An aggrieved relocatee who wishes to contest any determination made by the department concerning either eligibility for benefits or the amount of benefits due pursuant to the uniform act may either:

(a) File written objections with the department's district right-of-way agent.

(b) Appear before the department's district right-of-way agent and present his objections orally.

(2) Objections, whether written or oral, shall be filed or presented within 6 months after the aggrieved relocatee is given written notice of the determination to which objection is made.

(3) The district right-of-way agent shall give written notice of his decision, by certified mail, within 30 days after receipt of written or oral objections.

History: 1954 ACS 79, p. 6, Eff. May 22, 1974.

R 247.403 Hearing by department.

Rule 3. An aggrieved relocatee, who wishes to contest the district agent's written decision, may file written objections with the department and may also appear before the department to present objections after written decision of the district agent. The written objections shall be filed within 30 days after written notice by the district agent. A personal appearance shall be scheduled after a written request by the aggrieved relocatee. The hearing shall be conducted by a hearings officer appointed by the director of the department. The aggrieved relocatee may represent himself at the hearing or be represented by legal counsel. The department shall be represented by a member of the right-of-way division and in addition may be represented by the attorney general.

History: 1954 ACS 79, p. 6, Eff. May 22, 1974.

R 247.404 Opening statements; evidence; witnesses.

Rule 4. (1) The hearing shall be opened by the hearings officer with a concise statement of the hearing's nature and purpose. The hearings officer shall follow the rules of evidence applicable to circuit court proceedings. However, in addition, the hearings officer may admit and give probative effect to any evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs.

(2) Documentary evidence may be received in the form of copies, excerpts or by incorporation by reference.

(3) The aggrieved relocatee, the department and the hearings officer may examine witnesses.

History: 1954 ACS 79, p. 7, Eff. May 22, 1974.

R 247.405 Exhibits; forms; submission.

Rule 5. (1) Evidence to be presented, consisting of matters so complex as to make the presentation difficult to follow, may be presented in exhibit form and supplemented and explained but not duplicated by oral testimony.

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(2) Documentary exhibits shall be typed on 1 side only of pages not exceeding 8½ inches by 11 inches, or multiples thereof, with a sufficient margin for binding, preferably 1½ inches to be left blank on left side of each page. An exhibit in excess of 8½ inches wide shall be folded to be not more than 8½ inches by 11 inches if practicable. It is desirable that an exhibit of 2 or more pages be stapled together and notation made at the top of the first page as to the number of pages contained in the exhibit.

(3) An exhibit shall indicate the control section and parcel number on the first page and provide space for the name of the witness and number and date of the exhibit. Exhibits shall be numbered in numerical sequence regardless of the identity of the party offering them. The number of the exhibit shall be prefixed with a letter indicating the identity of the party offering it. A party introducing documentary exhibits shall furnish 3 copies to the hearings officer.

(4) Additional documentary evidence may be submitted subsequent to the closing of the hearing upon stipulation of the parties.

History: 1954 ACS 79, p. 7, Eff. May 22, 1974.

R 247.406 Arguments and decisions.

Rule 6. (1) After all of the evidence is entered in the record, the aggrieved relocatee and the department may summarize their arguments and the hearing shall be closed.

(2) Within 30 days after the hearing, the hearings officer shall send a written notice of the hearing decision by certified mail to the aggrieved relocatee. The written notice shall contain the reasons supporting the decision. A copy of the hearing transcript shall be available upon request.

History: 1954 ACS 79, p. 7, Eff. May 22, 1974.

R 247.407 Appeals to commission.

Rule 7. (1) The decision of the hearings officer may be appealed to the commission if written notice of appeal is filed by the aggrieved relocatee with the commission within 30 days after the hearings officer renders a decision.

(2) On appeal to the commission, additional written evidence may be filed by the aggrieved relocatee and by the department within 10 days after filing the notice of appeal of the hearings officer's decision. In rendering its decision, the commission shall consider the entire hearing record, and additional written evidence which may have been filed by the aggrieved relocatee or the department. The commission may request the aggrieved relocatee to appear personally. The commission shall inform the aggrieved relocatee and the department of its decision on the appeal by sending each of them a copy of its written decision within 30 days after the commission meets following the filing of additional written evidence.

(3) If the commission affirms the hearings officer's decision, the aggrieved relocatee may seek legal remedies in the appropriate state or federal court as provided by statutes and court rules.

History: 1954 ACS 79, p. 7, Eff. May 22, 1974.

ADVERTISING ADJACENT TO HIGHWAYS

(By authority conferred on the state highway commission by section 23 of Act No. 106 of the Public Acts of 1972 and Act No. 306 of the Public Acts of 1969, as amended, being §§252.323 and 24.201 to 24.315 of the Michigan Compiled Laws)

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PART 1. GENERAL PROVISIONS

R 247.701 Definitions; A to D.

Rule 1. (1) Terms defined and used in the act have the same meaning when used in these rules.

(2) "Act" means Act No. 106 of the Public Acts of 1972, being §§252.301 to 252.324 of the Michigan Compiled Laws.

(3) "Directional and other official signs and notices" means an official sign or notice, public utility sign, service club and religious notice, public service sign, and directional signs.

(4) "Directional sign" means a sign containing only directional information and the identification of the activity about public places owned or operated by federal, state or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious site, deemed to be in the interest of the traveling public.

History: 1954 ACS 79, p. 8, Eff. June 18, 1974.

R 247.702 Definitions; M to O.

Rule 2. (1) "Official signs and notices" means a sign or notice erected and maintained by public officers or a public agency within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility and a historical marker authorized by state law and erected by state or local government agency or nonprofit historical society.

(2) "On-premise advertising signs and devices" means a sign, display, or device which identifies the business transacted, services rendered, goods sold or produced on the property, name of the business, name of firm or corporation occupying the property.

History: 1954 ACS 79, p. 8, Eff. June 18, 1974.

R 247.703 Definitions; P to V.

Rule 3. (1) "Parkland" means a publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(2) "Public service sign" means a sign located on an approved school bus shelter containing identification of donor and such safety slogans as to not occupy over 60% of the area of the sign.

(3) "Public utility signs" means a warning sign, informational sign, notice, or marker which is customarily erected and maintained by a publicly or privately owned public utility, and essential to their operation.

(4) "Scenic area" means an area of particular scenic beauty or historical significance as determined by the federal, state or local officials having jurisdiction thereof and includes interest in land which has been acquired for the restoration, preservation, and enhancement of scenic beauty.

(5) "Service club and religious notice" means a sign or notice, relating to meetings of a nonprofit service club or charitable association or religious service, which signs do not exceed 8 square feet in area.

(6) "Transient or temporary operation" means that which operates less than 3 months per year.

(7) "Turning roadway" means a connecting roadway for traffic turning between 2 intersecting legs of an interchange.

(8) "Village" means an incorporated village.

History: 1954 ACS 79, p. 8, Eff. June 18, 1974.

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R 247.705 Scope.

Rule 5. An outdoor advertising sign or device, erected or maintained within 660 feet of the right-of-way in a city, village, or charter township, and within 3,000 feet of the right-of-way in other areas adjacent to interstate, freeway, and federal-aid primary highways, which is visible from the main traveled way of that trunk line, shall conform to the following rules.

History: 1954 ACS 79, p. 9, Eff. June 18, 1974.

R 247.706 Spacing of signs.

Rule 6. (1) Along interstate highways and freeways, a sign structure located in business areas or unzoned commercial or industrial areas shall not be erected or maintained closer than 500 feet to another sign structure on the same side of the highway.

(2) Along primary highways within the limits of municipalities, a sign structure located in business areas or unzoned commercial or industrial areas shall not be erected or maintained closer than 100 feet to another sign structure.

(3) Along primary highways in areas outside of the limits of municipalities, a sign structure located in business areas or unzoned commercial or industrial areas shall not be erected or maintained closer than 300 feet to another sign structure.

History: 1954 ACS 79, p. 9, Eff. June 18, 1974.

R 247.707 Spacing within intersecting adjacent areas.

Rule 7. (1) A sign shall be under the controls established for the highway upon which the sign location or locations front.

(2) Spacing controls shall be measured parallel to the pertinent highway.

(3) A sign visible from an interstate or primary highway shall occupy a location fronting on that highway and only 1 sign structure visible from that highway shall occupy any portion of that location.

(4) A sign visible from 2 adjacent interstate or primary highways shall occupy 2 locations, 1 fronting on each highway. Another sign shall not occupy either of the 2 locations.

(5) The minimum spacing between signs or sign structures visible from different highways shall be not more than the minimum spacing required of the intersecting highways.

History: 1954 ACS 79, p. 9, Eff. June 18, 1974.

R 247.708 Visual limitations.

Rule 8. Topographical features used to determine vision limitations to signs include land forms, water, vegetation, and buildings affixed to the land.

History: 1954 ACS 79, p. 9, Eff. June 18, 1974.

R 247.709 Measurements.

Rule 9. (1) Measurements for spacing determination shall be made parallel to the edge of the pavement of the main traveled way.

(2) Measurements for determining that portion of a business area that is within 1 mile of a municipality shall be made on an arc or radius basis, with measurements starting at the nearest point on the corporate limits and extending toward the controlled highways.

(3) Measurements between multiface signs shall be horizontal between the edge or back of the display face or face border trim of the sign and sign structure.

(4) The following shall be deemed 1 sign structure for spacing and size controls if they comply to the stated criteria:

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(a) Double-faced display; faces lying in the same general plane not more than 4 feet apart and facing the same direction of travel.

(b) Back-to-back sign structure; faces not more than 10 feet apart and facing in opposite directions of travel.

History: 1954 ACS 79, p. 9, Eff. June 18, 1974.

R 247.710 Structures and location areas.

Rule 10. (1) An outdoor advertising sign or device shall be securely affixed to a substantial structure.

(2) A sign location occupies the full distance between the highway right-of-way line and the outer edge of the adjacent area measured perpendicular to the pavement edge of the main traveled roadway.

History: 1954 ACS 79, p. 10, Eff. June 18, 1974.

R 247.711 Zoning areas.

Rule 11. (1) Zoning shall be in accordance with procedures established by state law.

(2) The status of an unzoned commercial or industrial area, or a zoned business area beyond 1 mile of the corporate limits, shall remain unchanged for a period of 3 years after the businesses creating the commercial or industrial area have closed operations. During the period when a commercial or industrial business is not in operation, additional signs shall not be allowed within the area.

(3) In determining unzoned commercial or industrial areas, activities related to agriculture or forestry such as nurseries, greenhouses, storage facilities, portable sawmills, natural resource extraction operations normally located in agricultural or forest areas such as unmanned oil wells and storage areas, earth borrow areas lacking permanent processing equipment, as well as unmanned public utility structures or operations shall not be considered commercial or industrial.

History: 1954 ACS 79, p. 10, Eff. June 18, 1974.

PART 2. PERMITS AND VIOLATIONS

R 247.721 Permits.

Rule 21. (1) Each sign face shall be treated as a separate sign for permit purposes.

(2) If the permit number cannot be placed on the sign facing, it may be placed on the sign structure in compliance with the act. If the permit number is placed on the structure, it shall be visible from the highway faced by the sign or sign structure.

(3) Any permit issued pursuant to these rules does not relieve the applicant from the responsibility of complying with all ordinances which comply with section 4 of the act.

(4) The location of the proposed sign as specified in the permit application shall be relied upon by the department in the issuance of future permits in that vicinity.

(5) A person is not required to obtain a permit for his own sign which is located on his own premise, only if that sign advertises the business, products or profession which is conducted or maintained on that premise as defined in these rules.

(6) An annual permit sticker issued by the department shall be placed above the 4-inch permit number on all outdoor advertising signs or devices which are issued permits prior to July 1973. The permit sticker must be attached within 4

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months of the issuance of a permit on signs existing on the effective date of the act or within 3 business days of the completion of erection of a new sign.

History: 1954 ACS 79, p. 10, Eff. June 18, 1974.

R 247.723 Violation notices and postings.

Rule 23. When a sign or sign structure is found to be in violation of the act, a notice shall be posted on the sign or sign structure.

History: 1954 ACS 79, p. 10, Eff. June 18, 1974.

PART 3. DIRECTIONAL AND OTHER OFFICIAL SIGNS

R 247.731 Directional and other official signs; applicability.

Rule 31. All applicable provisions of the act shall apply to directional and other official signs and notices which are erected and maintained within the adjacent area of an interstate, freeway, or primary highway and which are visible from the main traveled way of the highway, except as hereinafter provided.

History: 1954 ACS 79, p. 10, Eff. June 18, 1974.

R 247.732 Directional sign qualifications.

Rule 32. (1) A privately owned activity or attraction eligible for a directional sign is a natural phenomenon, scenic attraction, natural outdoor recreational area, or an historic, educational, cultural, scientific, or religious site.

(2) To be eligible, a privately owned attraction or activity shall be nationally or regionally known and of outstanding interest to the traveling public.

(3) The department shall determine the eligibility of each attraction or activity. In making this determination, the department may avail itself of the experience and knowledge of selected groups in the specific type of attraction or activity being considered. Any scenic, natural wonder, or historical site shall be sanctioned by the direction of the department of natural resources upon recommendations from the natural area advisory council or historical preservation advisory council before approval by the department.

History: 1954 ACS 79, p. 10, Eff. June 18, 1974.

R 247.733 Permits.

Rule 33. (1) A permit is required for a directional, service club, church, or public service sign.

(2) Permit numbers for a service club, church, or public service sign shall be 2 inches in height and may be placed on the back of the sign.

History: 1954 ACS 79, p. 11, Eff. June 18, 1974.

R 247.735 Size.

Rule 35. (1) A sign shall not exceed the following limits:

(a) Service clubs and church signs, 8 square feet per organization.

(b) Directional signs, 150 square feet.

(c) Public service signs, 32 square feet.

(2) The maximum height or length is 20 feet.

(3) All dimensions include border and trim.

History: 1954 ACS 79, p. 11, Eff. June 18, 1974.

R 247.736 Spacing and location.

Rule 36. (1) Each location of a service club, church, and directional sign shall be approved by the department.

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(2) The total number of service club and church signs on 1 side of the highway shall be not more than 4 in any 1,000 feet.

(3) A directional sign shall be located not less than 2,000 feet from an interchange, rest area, or intersection at-grade along the interstate system or other freeway as measured along the main traveled way from the nearest point of the beginning or ending of pavement widening at the exit or entrance to the main traveled way.

(4) A directional sign shall be located not less than 2,000 feet from a parkland or a scenic area.

(5) Directional signs facing the same direction of travel shall be spaced not less than 1 mile apart.

(6) Not more than 3 directional signs pertaining to the same activity and facing the same direction of travel shall be erected along a single route approaching the activity.

(7) A sign located adjacent to an interstate highway shall be not more than 75 air miles from the activity.

(8) A sign located adjacent to a primary highway shall be not more than 50 air miles from the activity.

History: 1954 ACS 79, p. 11, Eff. June 18, 1974.

R 247.737 Illumination.

Rule 37. (1) A sign shall not contain, include, or be illuminated by a flashing, intermittent, or moving light.

(2) A sign shall be effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate or primary highway, and shall be of such intensity or brilliance as to not cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation of a motor vehicle.

(3) A sign shall be so illuminated as not to interfere with the effectiveness of or obscure an official traffic sign, device or signal.

History: 1954 ACS 79, p. 11, Eff. June 18, 1974.

PART 4. HEARINGS AND APPEALS

R 247.741 Requests for hearing.

Rule 41. (1) A person aggrieved by any action or inaction of the department, other than the amount of compensation to be paid pursuant to the act, is entitled to a hearing before an officer appointed by the department upon filing a written request with the department within 20 days after the grievance arises.

(2) In his request for a hearing, a person aggrieved by the department's action or inaction under the provisions of these rules shall consolidate all related grievances which arose or accrued 10 days before the request.

(3) For the purposes of this rule, all violation notices against the same party shall be deemed related and all permit grievances brought by the same party shall be deemed related.

(4) A hearing shall be held not more than 30 days after the request is received by the department, unless good cause is shown by either party. The department shall notify the person of the hearing date, time, and place not less than 10 days before the hearing.

(5) In the notice of hearing required by subrule (4), the department shall set forth a statement of the legal authority under which the hearing is to be held and the particular sections of statutes and rules involved.

(6) The party requesting the hearing shall specify in the request the locations of

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all signs to be considered and shall set forth a statement, which shall be placed in the notice of hearing, of the matters to be asserted by him or on his behalf at the hearing.

History: 1954 ACS 79, p. 11, Eff. June 18, 1974.

R 247.742 Representation.

Rule 42. A person may represent himself at a hearing or be represented by legal counsel and technical counsel. The department may be represented by the attorney general.

History: 1954 ACS 79, p. 12, Eff. June 18, 1974.

R 247.743 Opening statements, evidence and cross-examination.

Rule 43. (1) The hearing officer shall open the hearing with a concise statement of its nature and purpose. He shall follow the rules of evidence applicable to circuit court proceedings, but may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs.

(2) Evidence, including documents and records in possession of the department, which a party desires to present shall be accepted and made a part of the record. Documentary evidence may be received in the form of copies or excerpts or may be incorporated by reference.

(3) The parties have the right of cross-examination which includes the right to cross-examine the author of any document prepared for the use of the department and to offer the document as evidence and have the right to submit rebuttal evidence.

History: 1954 ACS 79, p. 12, Eff. June 18, 1974.

R 247.744 Official notice and evaluation of evidence.

Rule 44. The hearing officer may take official notice of judicially cognizable facts and of general technical and scientific facts within his specialized knowledge. The parties shall be notified at least 5 days before the hearing of material so noticed and shall have an opportunity to rebut the facts so noticed. The hearing officer may use his experience, technical competence and specialized knowledge in the evaluation of the evidence presented to him.

History: 1954 ACS 79, p. 12, Eff. June 18, 1974.

R 247.745 Exhibits.

Rule 45. (1) When evidence to be presented consists of matters so complex as to make testimony difficult to follow it may be presented in exhibit form, supplemented and explained, but not duplicated, by oral testimony. Documentary exhibits shall be typed on 1 side only on pages not more than 8½ by 11 inches, or multiples thereof, with a sufficient margin for binding on the left side of each page. An exhibit in excess of these dimensions shall be folded to be not more than 8½ inches by 11 inches. An exhibit of 2 or more pages shall be stapled together and a notation made at the top of the first page of the number of pages contained in the exhibit. An exhibit shall be numbered in numerical sequence regardless of the identity of the party offering it.

(2) A person introducing a documentary exhibit shall furnish 6 copies to the hearing officer.

(3) Additional documentary evidence may be submitted after the closing of the hearing upon stipulation of the parties.

History: 1954 ACS 79, p. 12, Eff. June 18, 1974.

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R 247.746 Arguments and decisions.

Rule 46. (1) After all the evidence has been entered in the record the parties may summarize their arguments after which the hearing shall be closed.

(2) The department shall notify the person in writing of the hearing decision within 30 days after the hearing.

History: 1954 ACS 79, p. 12, Eff. June 18, 1974.

R 247.747 Appeals.

Rule 47. (1) A decision of the hearing officer may be appealed to the commission by written notice of appeal filed with the commission not more than 5 days after the officer renders his decision. On appeal to the commission, briefs may be filed by the person and the department 20 days after filing the notice of appeal.

(2) In rendering its decision, the commission shall consider the entire hearing record and briefs which may have been filed. The commission shall inform the person and the department of its decision by filing a copy of its written decision within 45 days after the date on which original briefs were filed, and by mailing a copy of its decision to the appellant.

(3) If the commission affirms the hearing officer's decision, either party may petition for judicial review in the appropriate state court.

History: 1954 ACS 79, p. 13, Eff. June 18, 1974.

GENERAL TRANSPORTATION FUND

(By authority conferred on the state highway commission by section 10g of Act No. 51 of the Public Acts of 1951, as added, being §247.660g of the Michigan Compiled Laws)

R 247.801 Definitions.

Rule 1. (1) The terms defined in the act have the same meanings when used in these rules.

(2) "Act" means sections 10 to 10j of Act No. 51 of the Public Acts of 1951, as amended, being §§247.660 to 247.660j of the Michigan Compiled Laws.

(3) "Annual application information" means the information required to be submitted annually to the bureau for an eligible authority or eligible governmental agency to participate in the following state fiscal year allocation of general transportation funds.

(4) "Bureau" means the bureau of urban and public transportation.

(5) "Commission" means the state highway commission.

(6) "Council" means the public transportation council established under section 10i of the act.

(7) "Department" means the department of state highways and transportation.

(8) "Downriver area of Wayne county" means the cities of Ecorse, Gibraltar, Lincoln Park, River Rouge, Riverview, Southgate, Trenton and Wyandotte, the township of Grosse Ile, and the township of Brownstown lying east of the city of Rockwood, as they existed on January 3, 1973.

History: 1954 ACS 84, p. 19, Eff. Aug. 5, 1975.

R 247.802 Submittal and approval process.

Rule 2. Annual and multiyear plans for financial assistance under the act shall be submitted in accordance with the following annual schedule:

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Item	Responsibility	Annual Deadline
Annual application information	Bureau	August 1
Urban public transportation plan annual or multiyear	Eligible authority or eligible governmental agency	January 1
Review of annual public transportation plan	Agency responsible for land use and urban planning in the urban area	February 1
Review of submittals	Council	February 15
Approval of submittals	Commission	March 1
Statewide annual general transportation program to legislature	Commission	March 1
Approval of statewide annual general transportation program	Legislature	30 legislative session days after receipt of the plan
Preliminary federal capital program	Eligible authority or eligible governmental agency	May 1

History: 1954 ACS 84, p. 19, Eff. Aug. 5, 1975.

R 247.803 Eligibility.

Rule 3. (1) To establish eligibility, an eligible authority or eligible governmental agency shall submit documentation to the bureau which shows:

(a) That the applicant is legally furnishing transportation services in the area.

(b) The applicant has been established according to the Michigan Compiled Laws.

(2) Eligibility documentation means submission by the eligible authority or eligible governmental agency of:

(a) A resolution by the county, city, or village establishing an authority.

(b) The adopted bylaws and articles of incorporation, if any, of the eligible authority or eligible governmental agency requesting eligibility which indicates the specific duties, functions, and powers of the eligible authority or eligible governmental agency.

(c) A certified copy of the city or village charter permitting eligible governmental agencies to provide public transportation services.

(d) A resolution by the governing body of the eligible authority or eligible governmental agency requesting eligibility determination by the commission.

(3) Eligible governmental agencies established after January 3, 1973, and located within the area of legal responsibility of an eligible authority must submit a resolution from the eligible authority indicating that approval has been granted to make direct application under the act.

(4) Eligible governmental agencies in areas of under 50,000 people shall be eligible for public transportation purposes under the act, upon the written determination by the commission that public transportation services should reasonably be provided presently or in the future.

History: 1954 ACS 84, p. 20, Eff. Aug. 5, 1975.

R 247.804 Resolution of intent.

Rule 4. A resolution of intent to participate in the general transportation fund shall be enacted annually by the governing entity of the eligible authority or eligible governmental agency. This resolution shall encompass all of the following:

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(a) Makes known the intent of the governing entity to provide public transportation services, in accordance with the act.

(b) Specifies that the governing entity requests state financial assistance under the provisions of section 10e of the act.

(c) Names an official who shall serve as the official representative of the governing entity and the commission on urban transportation matters.

(d) Authorizes the official representative to provide such information as deemed necessary by the commission for its administration of the act.

History: 1954 ACS 84, p. 20, Eff. Aug. 5, 1975.

R 247.805 Application approval.

Rule 5. (1) Annually the bureau shall issue application information to all eligible authorities and eligible governmental agencies. Each year the bureau shall update the annual application information from the previous year annual application information to reflect the views and comments of eligible governmental agencies, eligible authorities, the council and the commission.

(2) Within 30 days of receipt, the commission may approve or reject an annual or multiyear plan or application for general transportation funds by a written statement to the eligible authority or eligible governmental agency public body setting forth its reasons for the rejection. The commission may reject an annual or multiyear plan or application for general transportation funds if:

(a) The eligible authority or eligible governmental agency has failed to submit an application as outlined by the annual application information.

(b) The review process as prescribed by section 10f of the act and R 247.809 has not been met by the eligible authority or eligible governmental agency.

(c) The eligible authority or eligible agency is in default on terms and conditions of a contractual agreement entered into between it and the commission under R 247.811.

(d) The proposed annual or multiyear plan fails adequately to address the present or projected demand for transportation within the service area of eligible authority or eligible governmental agency.

(e) The eligible authority fails to meet the conditions for grants as prescribed by section 10j of the act.

(f) The eligible authority or eligible governmental agency fails to comply with the provisions of section 10e of the act.

(g) The eligible authority or eligible governmental agency has taken actions or failed to take actions which would tend to indicate it is not a responsible agency as required by section 10f of the act.

(h) The eligible authority or eligible governmental agency fails to meet the requirements of section 10h of the act.

History: 1954 ACS 84, p. 20, Eff. Aug. 5, 1975.

R 247.806 Eligible costs.

Rule 6. (1) Where the department has approved a demonstration project under section 10e of the act, the costs of providing service under the demonstration project shall be considered as eligible costs in the meaning of actual eligible operating costs for that action.

(2) Where the department has approved a demonstration project under section 10e of the act, the transit vehicle miles of service provided under the demonstration project shall be considered as eligible vehicle miles for the purposes of that section.

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(3) Research, planning, program management, engineering, design, operation, maintenance, and capital costs are eligible costs for demonstration grants.

(4) Eligible costs for the purposes of receiving funds under subdivision (c) of subsection (1) of section 10e of the act may include:

(a) Depreciation of real and personal property to the extent purchased with local funds after January 3, 1973, as supported by IRS straight depreciation methods in IRS publication no. 534.

(b) Direct labor, material, and overhead expenses as well as expenses for contractual services directly incident to the management and operation of public transportation.

(c) Supportive services provided to the eligible authority or eligible governmental agency to the extent those costs are operating costs as intended by the act. A cost allocation plan shall document the basis for allocation of such supportive services expenses for public transportation. This plan shall be submitted to the bureau each year by eligible authorities and eligible governmental agencies as part of its annual application for approval.

(d) Expenses incurred by an eligible authority or an eligible governmental agency in the development of a program of projects where this technical support is unique to the operation or provision of public transportation or directs time and resources from the operation of the system. However, where this technical support duplicates staff capability of other agencies or where such support is provided by contract with another public or private entity, such expenses are ineligible.

(e) Pension benefits and contributions to a pension plan to the extent they are actually paid and are in conformance with section 10j of the act.

(f) Interest and other financial costs associated with borrowings to provide working capital to pay current operating costs pending receipt of state funds under subdivision (c) of subsection (1) of section 10e of the act. Interest income earned on working capital shall offset eligible operating costs.

(g) The operating costs of a transit system with whom the eligible authority or eligible governmental agency has an approved purchase of service agreement.

(5) Ineligible costs for the purposes of receiving funds under subdivision (c) of subsection (1) of section 10e shall include, but not be limited to:

(a) Expenses reimbursed by other state programs or other activities of the department or expenses reimbursed under subrules (1), (2), and (3).

(b) Expenses incurred by a county, city, or village in its capacity as an intermediary between the bureau and the eligible authority or eligible governmental agency.

(c) Provisions for income tax.

(d) Expenses reimbursed by insurance carriers or by a county, city, or village for insurance-type costs.

(e) Expenses recovered by the eligible authority or eligible governmental agency by contract or charter transportation services.

(f) Expenses reimbursed under federal programs excluding 49 U.S.C. (1604).

(6) Proceeds from the sale of capital equipment and facilities shall offset eligible costs under subrule (4) on a pro rata basis if the original equipment and facilities were purchased in part with funds received under the act.

(7) In addition to those items listed in subdivision (c) of subsection (1) of section 10e of the act, the commission may approve capital grants for those items necessary for public transportation if the unit cost of the item is $250.00 or more.

(8) Any category of operating cost not described above may be submitted to the bureau for a determination as to eligibility.

History: 1954 ACS 84, p. 21, Eff. Aug. 5, 1975.

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R 247.807 Transit vehicle miles and related operating cost eligibility.

Rule 7. (1) Transit vehicle miles and related operating costs qualify for reimbursement under section 10e of the act upon acceptance by the bureau of the information prescribed in subrule (2).

(2) Transit vehicle miles and related operating costs shall meet the following requirements:

(a) Service shall be provided over defined routes so that the general public is aware of the availability of the service, the origin-destination, headways, and schedules.

(b) Fare for the user shall be paid by the user either by cash, subscription, token, or charge card. The cash fare option shall always be available, if requested.

(c) There is reasonable uniformity in days of service for all routes.

(d) Service shall be available to the general public for all trip purposes. For example, a trip from an express pickup stop to a factory shall take passengers who will be making arrangements for trip transfer at the factory.

(e) If the operator publishes for general distribution schedules of routes and headways, all services shall be incorporated into this publication.

(f) The transit system shall provide reasonable evidence that it is encouraging the use of all services by all of the general public who might have an occasion to use them for any purpose.

History: 1954 ACS 84, p. 22, Eff. Aug. 5, 1975.

R 247.808 Quarterly certification.

Rule 8. (1) No later than 20 days of the end of each calendar year quarter, each eligible authority or eligible governmental agency shall prepare and submit to the department a quarterly report on its public transportation services during the preceding quarter according to format established by the bureau.

(2) In the quarterly report, the eligible authority or eligible governmental agency shall include a certification verifying that the costs and data submitted are correct and are in compliance with the other provisions of the act and the annual application guidelines as established by the department.

History: 1954 ACS 84, p. 22, Eff. Aug. 5, 1975.

R 247.809 Review process.

Rule 9. Each eligible authority or eligible governmental agency shall transmit to the department all comments received on the annual or multiyear plan through the review process as outlined in section 10f of the act.

History: 1954 ACS 84, p. 22, Eff. Aug. 5, 1975.

R 247.810 Annual report.

Rule 10. (1) Each eligible authority or eligible governmental agency shall file an annual report in the form prescribed by the bureau on or before September 30 of each year. The report shall contain as a minimum certified financial statements and the independent auditor's management letters and a progress report of all general transportation fund allocations made by the bureau for the preceding fiscal year.

(2) The financial statements shall be certified by an independent public accountant in accordance with subsection (4) of section 10h of the act. The scope of audit shall include but not be limited to:

(a) Verification of the accuracy of financial statements including reports filed under R 247.808. The information provided in R 247.808 shall be compared to the

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certified financial statements and a written explanation for differences shall be prepared and filed with the bureau.

(b) Conformation of assets and liabilities.

(c) Test of receipts.

(d) Examination of expenditures for supporting documentation.

(e) Verification of the transit vehicle miles reported under R 247.808.

(f) Verification of the passenger ridership data reported under R 247.808.

(g) Identification of sources of revenues.

(h) Breakdown of costs and revenues by type of service; linehaul, demand-response, contract, and charter.

(i) For capital and demonstration projects, all costs applicable should be identified according to bureau project identification number and verified according to the current contract agreement on each project.

(j) Verification of administrative and overhead rates and costs used in determination of capital and demonstration projects.

(k) Verification of eligible costs as defined by R 247.806.

(l) Compliance with rules and regulations and the act as annually set forth by the bureau in the annual report instructions and annual application guidelines.

History: 1954 ACS 84, p. 22, Eff. Aug. 5, 1975.

R 247.811 Contractual agreements.

Rule 11. The commission shall require a contractual agreement for approved projects under subdivisions (d) and (e) of subsection (1) of section 10e of the act. The agreement shall not become binding under this rule until approved by the state administrative board.

History: 1954 ACS 84, p. 23, Eff. Aug. 5, 1975.

R 247.812 Declaratory rulings.

Rule 12. (1) The department, on request of an interested person, may issue a declaratory ruling as to the applicability of the act or a rule to an actual statement of facts when the person submits to the department the following:

(a) A clear and concise statement of the actual statement of facts.

(b) If the interested person desires, a brief or other reference to legal authorities upon which he relies for determination of the applicability of the act or a rule to the statement of facts.

(2) If the department determines it will issue a declaratory ruling, it shall furnish the person with a statement to that effect and set forth the time in which it will issue the ruling.

(3) A ruling shall repeat the actual statement of facts, the legal authority on which the department relies for its ruling and the ruling it makes. A ruling once issued is binding on the department and the department may not change the ruling retroactively, but it may change a ruling prospectively.

History: 1954 ACS 84, p. 23, Eff. Aug. 5, 1975.

R 247.813 Grant administration.

Rule 13. The commission may adjust project funds awarded under section 10h of the act or may adjust project quantities or alter the project scope if:

(a) Federal funds necessary for the completion of the project are not awarded.

(b) The actual general transportation fund revenues available for commitment fall below the estimated general transportation fund revenues on which a grant commitment was made.

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(c) The actual cost of the project varies from the estimated costs on which a grant commitment was made.

(d) Revisions to the annual urban public transportation plan are requested by an eligible authority or eligible governmental agency and reviewed according to section 10f of the act.

History: 1954 ACS 84, p. 23, Eff. Aug. 5, 1975.

R 247.814 Grant commitments.

Rule 14. (1) The commission may refuse to honor a grant commitment to an eligible authority or eligible governmental agency for general transportation funds if the eligible authority or eligible governmental agency fails to comply with the act or these rules or the department's annual application guidelines. Before entering an order of refusal or rejection, the department shall notify the eligible authority or eligible governmental agency by certified mail of the commission's decision in a notice of intent to refuse to honor or to reject for deficiencies. This notice shall toll the running of a 30-day period during which the eligible authority or eligible governmental agency shall undertake to correct the deficiencies.

(2) The final decision shall be by further order.

(3) An order of rejection shall be entered automatically after 30 days following the date of mailing of the notice of intent to reject, unless the eligible authority or eligible governmental agency corrects the deficiencies to the department's satisfaction within that time or the department extends the time to correct to a day certain.

History: 1954 ACS 84, p. 23, Eff. Aug. 5, 1975.

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DEPARTMENT OF STATE

VISUAL STANDARDS FOR MOTOR VEHICLE DRIVERS' LICENSES

(By authority conferred upon the secretary of state by section 309 of Act No. 300 of Public Acts of 1949, as amended, being §257.309 of the Michigan Compiled Laws)

R 257.1 Vision examinations.

Rule 1. A driver's license applicant and a licensed driver examined as required under chapter 3 of Act No. 300 of the Public Acts of 1949, as amended, being §§257.301 to 257.327 of the Michigan Compiled Laws, in order to be licensed shall successfully pass a vision test authorized or administered by the department and meet other requirements of law. Whenever required hereunder, he shall submit a statement of examination on a form prescribed by or acceptable to the department which shall contain the name, address, title, and signature of an ophthalmologist or an optometrist, and the full name, address, date of birth, result of the examination, date of examination, and signature of the applicant.

History: 1954 ACS 81, p. 17, Eff. Nov. 13, 1974.

R 257.2 Unrestricted drivers' licenses.

Rule 2. An unrestricted driver's license may be issued to an applicant or licensee who has visual acuity of 20/40 and a peripheral field of vision of 140 degrees. Visual acuity less than 20/40 to and including 20/50 and a peripheral field of vision of 140 degrees or less to and including 110 degrees may be accepted if the applicant or licensee submits a statement of examination on a form prescribed by or acceptable to the department signed by an ophthalmologist or optometrist.

History: 1954 ACS 81, p. 17, Eff. Nov. 13, 1974.

R 257.3 Restricted drivers' licenses.

Rule 3. (1) A restricted driver's license requiring the driver to wear appropriate corrective lenses while driving may be issued if corrective lenses are necessary to meet any vision requirement.

(2) A restricted driver's license permitting daylight driving only may be issued if an applicant or licensee submits a statement from an ophthalmologist or optometrist stating 1 of the following:

(a) He has visual acuity less than 20/50 to and including 20/70 with no recognizable progressive abnormalities affecting vision.

(b) He has visual acuity less than 20/50 to and including 20/60 with recognizable progressive abnormalities affecting vision.

(3) A restricted driver's license containing additional conditions and requirements may be issued to an applicant or licensee who has a peripheral field of vision of less than 110 degrees to and including 90 degrees. The applicant or licensee shall pass any driving test specified by the department.

(4) A restricted driver's license may contain additional conditions and requirements.

History: 1954 ACS 81, p. 17, Eff. Nov. 13, 1974.

R 257.4 Denial or suspension of drivers' licenses.

Rule 4. A driver's license shall be denied or supended indefinitely if an applicant or licensee has visual acuity less than 20/60 with recognizable progres-

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sive abnormalities affecting vision; visual acuity less than 20/70 without recognizable progressive abnormalities affecting vision; visual acuity of 20/100 or less in 1 eye and less than 20/50 in the other; or a peripheral field of vision less than 90 degrees.

History: 1954 ACS 81, p. 18, Eff. Nov. 13, 1974.

R 257.5 Additional examinations.

Rule 5. The department may require an additional examination of the applicant or licensee.

History: 1954 ACS 81, p. 18, Eff. Nov. 13, 1974.

DEALER LICENSING DIVISION

DEALER DESIGNATION RULES

(By authority conferred on the secretary of state by section 204 of Act No. 300 of the Public Acts of 1949, being §257.204 of the Michigan Compiled Laws)

R 257.21 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws.

(b) "Field office" means an office of the secretary of state where a dealer makes application to the secretary of state for titles, transfers or secures registration plates, and secures a certificate of registration for a vehicle, in the name of the transferee.

(2) The terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 92, p. 6, Eff. Aug. 6, 1977.

R 257.22 Designation of field office.

Rule 2. The secretary of state shall designate to each dealer the only field office or field offices at which the dealer shall conduct business.

History: 1954 ACS 92, p. 6, Eff. Aug. 6, 1977.

DRIVER LICENSE APPEAL DIVISION

GENERAL RULES

(By authority conferred on the secretary of state by section 33 of Act No. 306 of the Public Acts of 1969, and by section 204 of Act No. 300 of the Public Acts of 1949, being §§24.233 and 257.204 of the Michigan Compiled Laws)

R 257.31 Definitions.

Rule 1. (1) The terms and definitions used in the act have the same meaning given therein when used in these rules.

(2) "Act" means Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws.

(3) "Administrator" means the secretary of state or the duly authorized representative thereof.

(4) "Hearing" means an appeal as provided in section 322 of the act, or a proceeding as provided in section 625f of the act.

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(5) "Hearing officer" means the individual appointed by the secretary of state to hold a hearing.

(6) "Petitioner" means an individual qualifying for a hearing pursuant to the act.

History: 1954 ACS 89, p. 5, Eff. Nov. 3, 1976.

R 257.32 Requests for hearing; contents; notice of denial.

Rule 2. (1) Requests for hearings shall be in writing and shall be received by the department within 14 days as provided in sections 322 or 625e of the act. The request shall include the petitioner's full name, date of birth, and, if known, driver's license number.

(2) If the request is denied, within a reasonable time the administrator shall notify the petitioner requesting the hearing and state the reason or reasons for the denial.

History: 1954 ACS 89, p. 5, Eff. Nov. 3, 1976.

R 257.33 Notice of hearing; contents.

Rule 3. (1) After a timely and proper request for hearing, the administrator shall schedule a hearing to be held within a reasonable time, except as provided by section 625f of the act.

(2) At least 10 days prior to the day of hearing, the administrator shall mail a written notice of hearing, by first class mail, to the last known address of the petitioner requesting the hearing.

(3) The notice of hearing shall include:

(a) The date, time, place, and nature of the hearing.

(b) The legal authority under which the hearing is being held.

(c) A reference to the particular sections of the statutes and rules involved.

(d) A short, plain statement of the matters asserted.

(e) In the case of an implied consent hearing, the issues that the hearing shall cover, as provided in section 625f of the act.

History: 1954 ACS 89, p. 5, Eff. Nov. 3, 1976.

R 257.34 Withdrawal of request for hearing; adjournments.

Rule 4. (1) A petitioner requesting a hearing may withdraw that request, in writing, up to the time of the hearing.

(2) After a hearing date has been set by the administrator, it shall not be adjourned except by action of the administrator or the hearing officer.

(3) A request for an adjournment shall be in writing and shall state concisely the reason or reasons why an adjournment is necessary. A request for an adjournment shall be received by the administrator not less than 2 business days prior to the date of the hearing. The hearing officer may grant an adjournment at any time, including the day of the hearing. An adjournment shall be granted only for reasonable cause, to be determined by the administrator or hearing officer.

History: 1954 ACS 89, p. 5, Eff. Nov. 3, 1976.

R 257.35 Subpoenas; issuance; service; witness fees; enforcement.

Rule 5. (1) Upon written request of a petitioner, the hearing officer may sign and issue a subpoena.

(2) The responsibility for service of the subpoena, determination of expert witness fees, payment of witness fees, and enforcement of the subpoena shall be solely with the petitioner requesting the subpoena.

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(3) To enforce a subpoena, the petitioner may file a petition for an order requiring compliance in the circuit court for the county in which the hearing is held.

(4) A subpoena shall issue on a form prescribed by the administrator.

History: 1954 ACS 89, p. 6, Eff. Nov. 3, 1976.

R 257.36 Appearance by petitioner.

Rule 6. A petitioner shall appear at a hearing and may be accompanied by counsel or other interested persons.

History: 1954 ACS 89, p. 6, Eff. Nov. 3, 1976.

R 257.37 Rehearing; time; effect of failure to appear.

Rule 7. (1) After a hearing has been held or a request for a hearing has been withdrawn, another hearing on the same matter shall not be held until 1 year from the hearing date or withdrawal date, unless the administrator or hearing officer provides otherwise.

(2) A hearing shall commence not later than 20 minutes after the scheduled hearing time, except for reasonable cause to be determined by the administrator or hearing officer.

(3) If a police officer fails to appear within 20 minutes of the scheduled hearing time of an implied consent hearing, the matter shall be dismissed, whether or not the petitioner appears, except for reasonable cause to be determined by the administrator or hearing officer.

History: 1954 ACS 89, p. 6, Eff. Nov. 3, 1976.

R 257.38 Record of hearing; transcript; fee; request; reprocessing of tape recording.

Rule 8. (1) A record shall be made of the hearing. A written transcript shall be provided upon demand by a petitioner.

(2) A fee, as provided in section 813 of the act, shall be charged to a petitioner requesting a transcript.

(3) A request for a transcript of a hearing shall be made in writing within 30 days from the hearing, and shall include the full name, date of birth, date of hearing, and, if known, the driver's license number of the petitioner.

(4) The administrator may reprocess the tape recording of a hearing if a request for a transcript has not been received by the administrator.

History: 1954 ACS 89, p. 6, Eff. Nov. 3, 1976.

R 257.39 Rescission.

Rule 9. The rules for conducting hearings held by the license appeal board, being R 11.51 to R 11.55 of the Michigan Administrative Code and appearing on page 177 of the 1956 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 89, p. 6, Eff. Nov. 3, 1976.

BUREAU OF DRIVER AND VEHICLE SERVICES

ADMINISTRATIVE SERVICES DIVISION

SPECIAL FARM VEHICLE PERMIT

(By authority conferred on the secretary of state by section 216 of Act No. 300 of the Public Acts of 1949, as amended, being §257.216 of the Michigan Compiled Laws)

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R 257.51 Special farm vehicle permit.

Rule 1. (1) In order to obtain a special farm vehicle permit, an applicant shall submit to the secretary of state all of the following:

(a) A Michigan title to the vehicle, a completed application for title, a Michigan registration for the previous year, or other acceptable proof of ownership.

(b) Acceptable proof of insurance.

(c) A completed application for a special farm vehicle permit.

(2) An application form shall be provided by the secretary of state. A completed application shall include all of the following:

(a) The owner's name and address.

(b) The make and model of the vehicle.

(c) The vehicle identification number.

(d) A statement signed by the owner certifying that the vehicle is to be used exclusively for gratuitously transporting farm crops between the field where produced and the place of storage.

(e) Photographs of the vehicle illustrating the features of the vehicle which indicate that the vehicle is designed for transporting farm crops.

(3) Only a vehicle with a bin that is unsuitable for transporting goods other than farm crops is eligible for the special farm vehicle permit authorized by this rule.

(4) The permit shall be a metal license plate securely fastened in a horizontal position to the rear of the vehicle for which it is issued, in a place and position to be clearly visible.

(5) A special farm permit shall expire on the last day of December except a permit obtained after December 1 shall expire on the last day of December of the next year.

(6) The fee for the permit shall be $15.00.

(7) The permit is not transferable between vehicles.

(8) A replacement for a lost, stolen, or mutilated permit may be obtained by submitting a completed application and $1.00 to the secretary of state.

History: 1954 ACS 94, p. 14, Eff. Dec. 20, 1977.

BUREAU OF AUTOMOTIVE REGULATION

GENERAL RULES

(By authority conferred on the secretary of state by section 9 of Act No. 300 of the Public Acts of 1974, being §257.1309 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 257.101 Definitions.

Rule 1. (1) The terms and definitions used in the act have the same meaning given therein when used in these rules.

(2) "Act" means Act No. 300 of the Public Acts of 1974, as amended, being §257.1301 et seq. of the Michigan Compiled Laws.

(3) "Advertise" means to advise, announce, apprise, command, give notice of, inform, make known, or publish any material which calls to the attention of the public the availability of parts and services.

(4) "Contract" means a written or oral agreement, understanding, arrangement or similar circumstances whereby a person agrees that another person perform work, labor, diagnosis, repair, reconditioning, replacement, adjustment, or alteration, directly or indirectly, upon a motor vehicle.

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(5) "Customer" means a person who inquires about, makes a request for, or purchases parts or services from a motor vehicle repair facility or one who seeks repairs or services under the terms of a warranty.

(6) "Estimate" means a written statement itemizing as closely as possible the price for labor, by showing both the labor price and the number of hours required to perform the work, and the price of parts necessary for a specific repair.

(7) "Facility" means a place of business operated by an association, incorporated or unincorporated, or natural person or other legal entity, required to be registered under the act, which performs services for compensation directly or indirectly, with regard to motor vehicle repairs.

(8) "Lien" means a charge, security, or incumbrance upon a motor vehicle, including where the law itself, without the stipulation of the parties, raises an implication or legal consequence from the relation of the parties or the circumstances of their dealings.

(9) "Material fact" means a fact which is used by a person as a premise upon which a conclusion is based.

(10) "Person" means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or other legal entity, including a motor vehicle repair facility.

(11) "Repair" means the reconditioning, adjustment, alteration, maintenance, or diagnosis of the operating condition of a motor vehicle, with or without the replacement of any component or subassembly of a motor vehicle, for compensation or under the terms of a warranty.

(12) "Representation" means a statement made by a facility to a customer in regard to some past, present, or future fact, circumstance, or set of facts pertinent to the contract.

(13) "Warranty" means a guarantee given by a motor vehicle repair facility, in writing or by implication, of the merchantability, the integrity of the subject of a contract or of the maker's responsibility for the replacement or repair of defective parts or services, or both, assuring performance, product, or conditions as promised or declared.

History: 1954 ACS 86, p. 12, Eff. Mar. 1, 1976.

R 257.102 Public access to records.

Rule 2. (1) Access to records shall be in accordance with sections 21 and 22 of Act No. 306 of the Public Acts of 1969, being §§24.221 and 24.222 of the Michigan Compiled Laws.

(2) Requests for access to records shall be in writing and shall identify the specific record. A request will be regarded as identifiable if the department can reasonably ascertain the particular record without unduly interfering or burdening its operations.

(3) The administrator shall grant or deny a request for records within a reasonable time after its receipt.

(4) A denial of a written request for a record shall be in writing and shall state specific grounds for the denial.

(5) Where the production of identifiable records of the department is denied, a person may petition the circuit court for the county in which the department records are situated for relief.

(6) There shall be a reasonable charge for the reproduction and mailing of identifiable records.

History: 1954 ACS 86, p. 13, Eff. Mar. 1, 1976.

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R 257.103 Address of administrator.

Rule 3. The official address of the administrator for delivery and receipt of all mail, telegrams, information, filings, registrations, applications, and other material required by the act or these rules is:

Department of State
Bureau of Automotive Regulation
Lansing, Michigan 48918

History: 1954 ACS 86, p. 13, Eff. Mar. 1, 1976.

R 257.104 Declaratory rulings.

Rule 4. (1) The administrator, on request of an interested person, may issue a declaratory ruling as to the applicability to an actual statement of facts of the act or a rule herein when he submits to the administrator the following:

(a) A clear and concise statement of the actual statement of facts.

(b) If the interested person desires, a brief or other reference to legal authorities upon which he relies for determination of the applicability of the act or a rule to the statement of facts.

(2) The administrator, if he determines to issue a declaratory ruling, shall furnish the person with a statement to that effect and set forth the time in which the ruling will be issued.

(3) A ruling shall repeat the actual statement of facts, the legal authority on which the department relies for its ruling, if any, and the ruling it makes. A ruling once issued is binding on the administrator and he may not retroactively change the ruling, but nothing in this rule shall prohibit the administrator from prospectively changing a ruling.

History: 1954 ACS 86, p. 13, Eff. Mar. 1, 1976.

PART 2. MAJOR AND MINOR REPAIRS

R 257.111 Minor repair services.

Rule 11. Minor repair services shall include the changing or installing of light bulbs, tires, lamp globes, batteries, air filters, oil filters, windshield wiper blades, fan or power assist belts, minor or ornamental accessories, or lubrication, oil changes, or other activities incidental to the business of selling motor fuel and lubricants. It shall also include the replacement, adjustment, repair, or servicing of the following parts and assemblies:

(a) Air cleaner element.
(b) Air conditioner compressor belts.
(c) Air pump belt.
(d) Air pump hose.
(e) Antifreeze, installing, changing, or otherwise servicing the coolant.
(f) Automatic door lamp switch.
(g) Battery.
(h) Battery ground cable.
(i) Battery hold down strap.
(j) Battery positive cable.
(k) Battery to starter relay cable.
(l) Body repairing.
(m) Brake, pedal pads.
(n) Carburetor, air cleaner.
(o) Clutch pedal pads.
(p) Crankcase closed vent valve.

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(q) Crankcase vent air cleaner.
(r) Crankcase vent air cleaner hose.
(s) Exhaust pipe and associated attaching parts.
(t) Fan and alternator drive belts.
(u) Fuel filter.
(v) Fuel line flex hoses or lines.
(w) Fuses.
(x) Headlamp foot dimmer.
(y) Heater hoses.
(z) Horns.
(aa) Idler pulley, adjust only.
(bb) Ignition coil cable.
(cc) Muffler, except catalytic.
(dd) Oil filter.
(ee) Power steering pump belt.
(ff) Radiators.
(gg) Radiator hoses, upper and lower.
(hh) Radiator reserve tank.
(ii) Shock absorbers which are not built in combination with other parts of the suspension.
(jj) Spark plugs.
(kk) Tail pipe and associated attaching parts.
(ll) Trunk latch.
(mm) Vapor canister hose.
(nn) Wheel covers or hubcaps.
(oo) Wheels, except alignment.
(pp) Windshield washer hose.
(qq) Windshield washer motor.
(rr) Windshield washer tank.
(ss) Wiper blades.

History: 1954 ACS 86, p. 13, Eff. Mar. 1, 1976; 1954 ACS 94, p. 15, Eff. Jan. 14, 1978.

R 257.112 Motor vehicle repair not defined as minor repair service.

Rule 12. A motor vehicle repair, not defined in the act or in these rules as a minor repair service, shall be performed, inspected, and approved after January 1, 1978, by a master or specialty mechanic certified in the category of the repair.

History: 1954 ACS 86, p. 14, Eff. Mar. 1, 1976; 1954 ACS 94, p. 16, Eff. Jan. 14, 1978.

PART 3. REGISTRATION OF FACILITIES

R 257.121 Motor vehicle repair facility registration; applicant; description of facility; effective and expiration dates; renewal; operation after expiration date.

Rule 21. (1) An applicant for registration as a motor vehicle repair facility shall submit to the administrator a description of the facility to be registered which shall include, in addition to other information required by the act or these rules, all of the following information:
(a) The type of service business operated.
(b) The type of repairs performed.
(c) The type of vehicles serviced.
(d) The number of mechanics employed in the performance of motor vehicle repairs.

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(e) The range of gross revenue obtained from the performance of motor vehicle repairs, including parts and goods sold in conjunction with motor vehicle repairs, for the most recent federal income tax year.

(f) The size of the facility in terms of the number of square feet devoted to the performance of motor vehicle repairs.

(2) A motor vehicle repair facility registration shall take effect on the date it is approved by the administrator and shall expire 1 year from that date, except that an original registration issued prior to October 1, 1976, shall expire on September 30, 1977, and an original registration issued after October 1, 1976, to a business operating as a motor vehicle repair facility on or prior to October 1, 1976, shall be deemed to be effective as of October 1, 1976, and shall expire on September 30, 1977. A motor vehicle repair facility registration shall be renewed annually, and a motor vehicle repair facility shall file application for renewal with the administrator not later than 30 days prior to the expiration of its registration.

(3) A motor vehicle repair facility may continue to operate after the expiration date, pending approval of the renewal application, if the renewal application has been received by the administrator on or before the expiration date. If a renewal application is filed after the expiration date, the facility may operate from the day on which the application is received by the administrator, pending approval of the renewal application. A renewal fee of 1½ times the normal renewal fee shall be imposed if the application is received by the administrator after the expiration date.

History: 1954 ACS 86, p. 14, Eff. Mar. 1, 1976; 1954 ACS 94, p. 16, Eff. Jan. 14, 1978.

R 257.122 Forms; documents; records; inspection.

Rule 22. (1) Applications, renewal applications, and applications for a duplicate registration shall be submitted on forms provided by the administrator.

(2) A motor vehicle repair facility shall provide with the application for registration 1 copy each of contracts or other papers used by the facility in dealing with the public in the execution of estimates, diagnoses, repairs, invoices, warranties, waivers, and papers otherwise used to comply with the act or rules, including papers upon which the facility routinely requires the customer's signature.

(3) A motor vehicle repair facility shall maintain for a period of not less than 1 year subsequent to the completion of a repair transaction, copies of contracts and papers used with respect to the transaction in the execution of estimates, diagnoses, repairs, waivers, warranties, including other means used by the facility to record or convey the terms of the transaction, or other papers required by the act. If the facility is advised by the administrator that a complaint has been received and is under investigation by the administrator, records relating to the transaction at issue shall be maintained until the administrator advises the repair facility in writing that the complaint has been closed, but in no case shall the records be maintained for less than 1 year subsequent to the transaction. In the event that a repair service transaction involves the assumption by the facility of an obligation extending beyond 1 year, papers relating to that obligation shall be maintained for not less than the term of the obligation.

(4) A facility shall maintain posted business hours during which time the administrator or his designated representatives may inspect all records kept by the facility.

History: 1954 ACS 86, p. 15, Eff. Mar. 1, 1976.

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R 257.123 Change of ownership.

Rule 23. (1) In the event of a change of ownership of a repair facility, a new registration and payment of a new registration fee shall be required and the facility shall not operate until its application is approved by the administrator. For purposes of this rule, "change of ownership" means a change in the ownership of a facility which is either a sole proprietorship or partnership.

(2) Corporations which have a change of 10% or more of the ownership of the corporation shall notify the administrator of the change within 30 days.

History: 1954 ACS 86, p. 15, Eff. Mar. 1, 1976.

R 257.124 Registration fee; determination.

Rule 24. The fee for the registration of a motor vehicle repair facility shall accompany the facility's application for registration filed with the administrator. The fee shall be determined by a sliding fee scale based upon all of the following:

(a) The size of the facility in terms of square feet devoted to the performance of motor vehicle repairs.

(b) The number of mechanics employed in the performance of motor vehicle repairs.

(c) The range of gross revenue obtained from the performance of motor vehicle repairs, including parts and goods sold in conjunction with repairs, for the last federal income tax year. In the case of a business which has not completed a full federal income tax year, the range of gross revenue shall be based on the reasonably anticipated gross revenue for the first full federal income tax year of operation.

History: 1954 ACS 86, p. 15, Eff. Mar. 1, 1976; 1954 ACS 94, p. 16, Eff. Jan. 14, 1978.

R 257.125 Registration fee schedule; renewal fee; loss, destruction, or mutilation of registration; replacement registration.

Rule 25. (1) Fees shall range from $25.00 to a maximum of $300.00 as determined by the following schedule:

Gross Annual Revenue	Facility Area Over 500 Square Feet		Facility Area Under 500 Square Feet	
	1 to 3 Mechanics	Over 3 Mechanics	1 to 3 Mechanics	Over 3 Mechanics
	Fee	Fee	Fee	Fee
Under $15,000.00	$ 35	$ 40	$ 25	$ 30
$ 15,000.00 to $ 25,000.00	$ 50	$ 60	$ 40	$ 45
$ 25,000.01 to $ 40,000.00	$ 75	$ 85	$ 60	$ 65
$ 40,000.01 to $ 60,000.00	$100	$110	$ 75	$ 85
$ 60,000.01 to $ 80,000.00	$125	$135	$ 90	$100
$ 80,000.01 to $100,000.00	$150	$160	$115	$125
$100,000.01 to $120,000.00	$175	$185	$140	$150
$120,000.01 to $140,000.00	$200	$210	$165	$175

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Gross Annual Revenue	Facility Area Over 500 Square Feet		Facility Area Under 500 Square Feet	
	1 to 3 Mechanics	Over 3 Mechanics	1 to 3 Mechanics	Over 3 Mechanics
$140,000.01 to $160,000.00	$225	$235	$190	$200
$160,000.01 to $180,000.00	$250	$260	$215	$225
$180,000.01 to $200,000.00	$275	$285	$240	$250
Over $200,000.00	$300	$300	$265	$275

(2) The annual registration renewal fee for a motor vehicle repair facility shall be determined in the same manner and according to the same schedule as the original registration fee.

(3) In the event that a registration issued to a motor vehicle repair facility is lost, destroyed, or mutilated, the facility shall immediately apply to the administrator for a replacement registration. The application for a replacement registration shall be accompanied by payment of a $5.00 fee.

History: 1954 ACS 86, p. 16, Eff. Mar. 1, 1976; 1954 ACS 94, p. 17, Eff. Jan. 14, 1978.

R 257.126 Display of certificate of registration; registration number; consumer information sign; contents; specifications; display; replacement.

Rule 26. (1) A motor vehicle repair facility shall display, upon issuance, in a place and manner conspicuous to its customers, a current and valid certificate of repair facility registration issued by the administrator. The facility shall affix its registration number, as assigned by the administrator, to each copy of every contract or other paper used in dealing with the public in the execution of estimates, diagnoses, repairs, invoices, warranties, waivers, and other papers used to comply with the act or these rules.

(2) A motor vehicle repair facility shall display a consumer information sign. The sign shall contain 15 lines of lettering worded substantially as follows:

THIS ESTABLISHMENT IS REGISTERED WITH
THE MICHIGAN DEPARTMENT OF STATE
AND IS REQUIRED BY LAW TO FURNISH
A CUSTOMER WITH A:
(1) WRITTEN ESTIMATE IF REPAIRS WILL BE $20 OR MORE
OR UPON REQUEST IF REPAIRS WILL BE LESS THAN $20.
(2) DETAILED INVOICE OF LABOR AND
PARTS SUPPLIED.
QUESTIONS REGARDING SERVICE WORK SHOULD BE
DIRECTED FIRST TO THE MANAGER OF THIS
REPAIR FACILITY.
MICHIGAN DEPARTMENT OF STATE
P.O. BOX _____, LANSING, MI 489_____
TOLL-FREE TELEPHONE: 800 _____
MON.-FRI., 8:30 A.M.-4:30 P.M.

(3) The sign shall be rectangular in shape and not less than 28 inches high by 24 inches wide. It shall be constructed of durable material. The background shall be white. Print and other markings shall be black. The wording of the sign in lines 1, 2, 12, 13, and 14 shall be printed in bold, block, capital letters 1-inch high and

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½-inch wide; lines 3, 4, and 15 in bold, block, capital letters ¾-inch high and ½-inch wide; and lines 5 to 11 in bold, block, capital letters ½-inch high and ⅜-inch wide. The sign shall be laid out in a clearly legible fashion, with the lettering arranged so that there is not less than a ⅛-inch space between any 2 letters within a line and not less than a ½-inch space between any 2 lines. The department of state address and telephone numbers in lines 13 and 14 shall be included as they are provided by the administrator.

(4) The sign shall be displayed at each entrance to the facility. For purposes of this rule, "entrance to the facility" means each location in or about the facility where customer repair service orders are initially executed. The sign shall be displayed at each cashier station. At all times, the sign shall be unobstructed and clearly and readily visible to customers. In the case of an unenclosed or mobile repair facility, the sign shall be placed in an area where it is easily noticeable to customers transacting business with the facility.

(5) The administrator may require the replacement of any sign which fails to meet the specifications outlined above or which is no longer readily legible, or the repositioning of any sign which is improperly displayed.

History: 1954 ACS 86, p. 16, Eff. Mar. 1, 1976; 1954 ACS 94, p. 17, Eff. Jan. 14, 1978.

PART 4. UNFAIR AND DECEPTIVE PRACTICES

R 257.131 Contracts and invoices.

Rule 31. (1) The following contracts are unfair and deceptive:

(a) A contract which uses a waiver to circumvent or evade the act.

(b) A contract which takes advantage of a customer's inability to reasonably protect his interests on account of illiteracy or inability to understand the language of an agreement, if the facility knows or reasonably should know of the customer's inability.

(c) A contract which has gross discrepancies between the oral representations of the facility and the written agreement covering the same transaction.

(2) It is an unfair and deceptive practice to:

(a) Make, either written or orally, an untrue or misleading statement of a material fact.

(b) Fail to reveal a material fact, the omission of which tends to mislead or deceive the customer and which fact could not reasonably be known by the customer.

(c) Enter into a contract which attempts to abrogate, disclaim, or disallow the legal rights, obligations, or remedies of a customer.

(d) Allow a customer to sign an acknowledgment, certificate, or other writing which affirms acceptance, delivery, compliance with a requirement of law, or other performance, if the facility knows or has reason to know that the statement is not true.

(e) Set up contractual provisions, including the statement of repairs and waivers, which are not specific in language, clearly described, or reasonably legible.

(f) Attempt to avoid or evade the law through a contract or any provision thereof.

(g) Fail to promptly restore to the person entitled thereto any deposit, down payment, or other payment when a contract is rescinded, cancelled, or otherwise terminated in accordance with the terms of the contract or the act.

(h) Allow a customer to sign a document in blank relating to the repair of a motor vehicle.

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(i) Fail to give the customer a copy of a document evidencing the engagement of the facility at the time of its signing by the customer.

(j) Fail upon return of a repaired vehicle to the customer to give a written statement of repairs to the customer which disclose:

(i) Repairs needed, as determined by the facility.

(ii) Repairs requested by the customer.

(iii) Repairs authorized by the customer.

(iv) The facility's estimate of repair costs.

(v) Actual costs of repairs.

(vi) Repairs or services performed, including a detailed identification of all parts that were replaced and a specification as to which are new, used, rebuilt, or reconditioned.

(vii) A certification that authorized repairs were completed properly or a detailed explanation of an inability to complete repairs properly. The statement shall be signed by the owner of the facility or by a person designated by the owner to represent the facility. The name of the mechanic who performed the diagnosis and the repair shall appear on the statement.

History: 1954 ACS 86, p. 17, Eff. Mar. 1, 1976.

R 257.132 Repair and parts replacement; performance, disclosure, and representation.

Rule 32. It is an unfair and deceptive practice to:

(a) Charge for repairs that are in fact not performed.

(b) Perform repairs which are in fact not necessary, except when a customer insists that a repair be performed in disregard to the facility's advice that it is unnecessary.

(c) Represent, directly or indirectly, that repairs are necessary when in fact they are not.

(d) Perform repairs not specifically authorized.

(e) Fail to perform promised repairs within the period of time agreed, or within a reasonable time, unless circumstances beyond the control of the repair facility, of which the repair facility did not have reason to know at the time of consignment, prevent the timely performance of the repairs.

(f) Represent, either directly or indirectly, that a replacement part used in the repair of a vehicle is new or of a particular manufacture when in fact it is used, rebuilt, reconditioned, deteriorated, or of a different manufacture, or otherwise fail to disclose in writing, prior to the commencement of repairs, the use of used, rebuilt, or reconditioned parts.

(g) Replace a part with one that lacks merchantability or fitness, or represent that parts or components provided or repairs performed are of a particular standard or grade when in fact they are not.

(h) Fail, subsequent to a diagnosis for which a charge is made, to disclose, at the customer's request, a diagnosed or suspected malfunction together with the recommended remedy and any test, analysis, or other procedure employed to determine the malfunction.

History: 1954 ACS 86, p. 18, Eff. Mar. 1, 1976.

R 257.133 Warranties.

Rule 33. It is an unfair and deceptive practice to:

(a) Disclaim or limit the implied warranty of merchantability or fitness for use, unless excluded or modified pursuant to §2316 of the Uniform Commercial

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Code, Act No. 174 of the Public Acts of 1962, being §440.2316 of the Michigan Compiled Laws.

(b) Fail to extend the period of a repair facility's own warranty for repairs and services, if the customer has been deprived of the use or enjoyment of the subject of the warranty because of a failure on the part of the repair facility to comply completely with the terms of the warranty. The extension shall be equal to or greater than the time of the deprivation.

(c) Fail to honor a warranty on a new part by replacing it with a used part or replacing it with a rebuilt or remanufactured part which does not meet original equipment quality, standards, or specifications.

(d) Fail to honor an express warranty.

(e) Fail to disclose in written language which is clear as to the nature or scope of a warranty all material aspects and intent, including, but not limited to, what is warranted, who will honor the warranty, the duration of the warranty, obligations, if any, of the person to whom the warranty is extended, and exceptions and exclusions from the terms of the written warranty agreement.

History: 1954 ACS 66, p. 18, Eff. Mar. 1, 1976.

R 257.134 Advertising and representations.

Rule 34. It is an unfair and deceptive practice to advertise or represent, either directly or indirectly:

(a) Reduced prices for products or services and not sell them at the advertised price during the period of the offering.

(b) Products or services at a particular price during a particular period and fail to extend the offer beyond that period to persons seeking but not obtaining the products or services during the advertised period because the facility has failed to prepare for the reasonably expected public demand.

(c) That a customer will receive products or services "free," "without charge," or words of similar import, if there are undisclosed conditions, terms, or limitations attached to the offering.

(d) Products or services while failing to reveal a material fact, the omission of which tends to mislead or deceive the customer, and which fact could not reasonably be known by the customer.

(e) That a customer will receive a rebate, discount, or other benefit as an inducement for entering into a contract, if the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(f) That a repair facility has the ability to perform repair services using personnel qualified in specific repair specialties, including those specialties enumerated in section 10 of the act, when in fact the facility does not employ mechanics legally certified in those specialties.

(g) Products or services when there is a material contingency, condition, or limitation on the offer, unless the contingency, condition, or limitation is stated contemporaneously with the offer in a manner clearly and easily understood by the customer.

(h) Products or services in a language other than English without including in the advertisement or representation required disclosures or limitations on the offer in the language principally used in the advertisement or representation.

(i) That mechanics employed by a repair facility are "certified," "licensed," or otherwise qualified when that representation might tend to give the impression that all mechanics employed by the facility are certified or licensed if in fact they are not.

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(j) That a customer's failure to act quickly or within a certain period of time to procure products or services will result in the loss of opportunity to procure them at a particular price when in fact this is not the case.

(k) Credit availability in such a manner as to cause a likelihood of confusion or of misunderstanding as to the terms or conditions of credit, or that credit availability or terms are "easy" or words of similar import when in fact that is not the case.

(l) That products or services are sold under the terms of "satisfaction guaranteed or money back" or words of similar import when in fact the customer's declaration of dissatisfaction is not the sole criterion for the refund of money on purchases so warranted.

(m) The necessity, desirability, or advantage to a prospective customer of dealing with a repair facility by misrepresenting the facility's alleged advantages of size.

(n) That a document which a customer signs is something other than what it is.

(o) An aspect of the repair transaction in a manner causing a likelihood of confusion, or of misunderstanding, with respect to the authority of a mechanic, salesperson, representative, or agent to negotiate the final terms of a transaction.

(p) An aspect of a repair transaction in a manner causing a likelihood of confusion, or of misunderstanding, as to the legal rights, obligations, or remedies of a party to the transaction.

(q) That service on an offered product is available under a warranty when in fact it is not available or there are undisclosed limitations or conditions on the availability of that service.

(r) A free or low cost inspection or diagnosis necessitating the removal or dismantling, or both, of a part or assembly and fail to disclose prior to the transaction a charge for replacement or reassembly in the event the customer declines to authorize a recommended repair.

(s) A product or service at a reduced rate and, upon the facility's failure to provide it at the offered price during the period of the offering to a customer seeking it, to fail to offer and provide the customer the opportunity to obtain the product or service at the same reduced rate within a reasonable period of time after the expiration of the original offer.

(t) Products or services, or the availability or obtainability of products or services in a manner involving the solicitation of waivers by the facility.

(u) Products or services and fail to meet the reasonably expected public demand for the duration of the advertised offering, except where the advertisement has clearly expressed a specific limitation on the quantity of the advertised products or services.

(v) The words "certification," "licensing," "registration," or words of similar import, of a motor vehicle repair facility, or mechanic by an organization, association, governmental entity, or other program or authority other than the administrator, without clearly and conspicuously disclosing the source of the "certification," "licensing," or "registration," and adding the disclaimer "not the Michigan Department of State."

(w) The desirability or advantages of certification or licensing by a federal, state, or local government agency, or that a motor vehicle repair facility or mechanic has been indorsed or sanctioned by the administrator.

History: 1954 ACS 88, p. 18, Eff. Mar. 1, 1976.

R 257.135 Liens.

Rule 35. It is an unfair and deceptive practice to:

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(a) Assert, claim, or impose a mechanic's or similar type lien where a facility has violated the act or these rules with respect to the transaction upon which the lien is based.

(b) Seek the repossession of a motor vehicle where a facility has violated the act or these rules with respect to the transaction upon which the repossession is based.

(c) Seek to assert or enforce a lien to the extent of refusing to return a vehicle where the facility has violated the act or these rules with respect to the transaction upon which the refusal is based.

(d) Fail to return the customer's vehicle if there is a dispute and the customer has paid the amount of the written estimate and any amount in excess thereof agreed to either orally or in writing by the customer.

History: 1954 ACS 86, p. 20, Eff. Mar. 1, 1976.

R 257.136 Estimates and charges.

Rule 36. It is an unfair and deceptive practice to:

(a) Fail, except where legally waived by the customer, to give the customer a written estimate prior to the commencement of work.

(b) Charge for work done or parts supplied in excess of the estimated price without the knowing written or oral consent of the customer.

(c) Fail to give the customer an estimate for the cost, if any, of reassembly, disassembly, or diagnosis.

(d) Fail to inform a customer, at a time prior to the customer executing a document or engaging the facility for the work, by the use of a notice as required by section 33 of the act, of his right to receive or inspect replaced parts for which he will be charged in the repair of his motor vehicle.

(e) Fail to retain a customer waiver with records which are retained concerning the transaction.

(f) Charge the customer storage charges where there is a dispute as to repair charges. Where delays in repairs are caused by lack of parts, a repair facility may make a charge for storage after informing the customer of the approximate length of the anticipated delay and of the daily storage charge rate and obtaining the customer's consent to the delay and the storage charges.

(g) Fail to be in compliance with the federal truth in lending act, 15 U.S.C. §1601 et seq. (1970), as amended, and the retail installment sales act, Act No. 224 of the Public Acts of 1966, being §445.851 et seq. of the Michigan Compiled Laws, where the customer finances repairs through the facility.

(h) Fail in practice to comply with advertised or stated payment policies.

(i) Conspire, combine, or confederate to fix prices.

(j) Conspire, combine, or confederate to allocate the market.

(k) Fail to notify the customer of an exchange agreement and charges for exchange parts if a customer wishes to have those parts returned.

(l) Fail to disclose, upon the customer's request, the method used by a facility to compute labor charges.

History: 1954 ACS 86, p. 20, Eff. Mar. 1, 1976.

R 257.137 Coercive practices.

Rule 37. It is an unfair and deceptive practice to:

(a) Improperly utilize waivers in such a way as to suggest or imply, directly or indirectly, orally or by action, that service or repairs will be improved or expedited if a waiver is signed, or that price will be improved.

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(b) Exaggerate the seriousness of the malfunction to induce the customer to agree to the repair.

(c) Suggest or imply, directly or indirectly, orally or by action, that service will be improved or expedited or that price will be improved if the customer will agree that the facility need not be required to return for inspection parts that have been replaced.

(d) Misrepresent that because of some defect in a customer's motor vehicle, the health, safety and lives of the customer or his family are in danger if the goods or repair services are not purchased when in fact the defect does not exist or the goods or services would not remove the danger.

History: 1954 ACS 86, p. 20, Eff. Mar. 1, 1976.

PART 5. RETURN OF REPLACED PARTS

R 257.141 Requirement of notice.

Rule 41. A motor vehicle repair facility shall inform a customer, at a time prior to the customer executing a document or engaging the facility for the work, of his right to receive or inspect replaced parts for which the customer will be charged in the repair of his motor vehicle. The information shall be given to the customer in the form of a written notice pursuant to section 33 of the act.

History: 1954 ACS 86, p. 21, Eff. Mar. 1, 1976.

R 257.142 Form of notice.

Rule 42. The notice shall be presented either:

(a) On the face of a contract, work order form, or other document evidencing the engagement of the facility in a type size not less than 12 point bold face and not less than 4 points larger than the principal type size of the master document.

(b) By a separate written document in bold face capital letters of not less than 12 point type size.

(c) By a clearly legible sign with lettering not less than 1-inch high, conspicuously displayed in the part of the facility where customer repairs are routinely contracted for.

History: 1954 ACS 86, p. 21, Eff. Mar. 1, 1976.

R 257.143 Explanation of part replacement.

Rule 43. Upon request of the customer, the facility shall explain exactly why a replaced part is defective or nonfunctional, or otherwise why it was replaced.

History: 1954 ACS 86, p. 21, Eff. Mar. 1, 1976.

R 257.144 Disposition of replaced parts.

Rule 44. (1) Upon completion of repairs, the facility shall, at the customer's request, reasonably clean the replaced parts that are to be returned or inspected by the customer. Portable parts shall be placed in a suitable container. Parts that are not portable shall be identified and stored in a suitable place in the facility for the customer's inspection. The facility shall not bar the customer from removing any heavy or large part by the customer's own means and expense. If the facility makes a charge in connection with the return of replaced parts, the charge shall be disclosed to the customer in writing prior to engagement of the facility.

(2) For reasons of safety, the facility shall not be required to return gasoline tanks or any other container-type parts that have been filled with or otherwise been in appreciable contact with flammable fuels unless those parts are rendered nonflammable. If any returned part presents an actual danger of flammability or explosiveness, the facility shall clearly inform the customer of that danger.

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(3) In the case of an undisputed transaction, replaced parts shall be held by the facility for not less than 2 business days after the delivery of the vehicle to the customer unless the customer has in fact authorized immediate disposition of the parts. Where there is a question or dispute raised by the customer within 2 business days with respect either to repairs or charges for repairs, the facility shall hold the replaced parts not returned to the customer until such time as the disputed matter is resolved. If the dispute involves a replaced part which the consumer has chosen not to remove from the facility, the facility shall, in the presence of the customer, immediately affix to the part in question a permanent mark sufficient to identify the part.

History: 1954 ACS 86, p. 21, Eff. Mar. 1, 1976.

R 257.145 Exchange agreements.

Rule 45. If replacement of a part is contingent upon the facility keeping the part under an exchange agreement, the facility shall explain in a manner understandable to the customer, the precise terms of the exchange agreement, including a disclosure of the price to the customer if he wishes to reclaim the part. If a customer raises a question or dispute with the facility within 2 business days of the delivery of the vehicle to the customer and the dispute involves an exchange part for which the facility may require of the customer a deposit in the amount of the facility's obligation, the deposit shall be refundable to the customer upon his return of the part to the facility.

History: 1954 ACS 86, p. 21, Eff. Mar. 1, 1976.

PART 6. BOND REQUIREMENT

R 257.151—R 257.157 Rescinded.

History: 1954 ACS 86, pp. 21-22, Eff. Mar. 1, 1976; rescinded 1954 ACS 94, p. 15, Eff. Jan. 14, 1978.

PART 7. CERTIFICATION OF MECHANICS

R 257.161 Application for certification.

Rule 61. (1) Before a person is certified as a master or specialty mechanic, the person shall have taken 1 or more of the following examinations and received scores, as determined by the administrator, which indicate competency to perform motor vehicle repairs in the category or categories examined:

(a) DOS ETS UAO1, DOS ETS VAO1, DOS ETS VAO2, DOS ETS VTR1, DOS ETS WAO1, DOS ETS WTR1, DOS ETS WAO2, DOS ETS WTR2, DOS ETS XAO1, DOS ETS XTR1, DOS ETS XAO2, DOS ETS XTR2, DOS ETS YAO1, DOS ETS YTR1, DOS ETS ZAO1, DOS ETS ZTR1, DOS ETS YAO2, DOS ETS YTR2, DOS ETS ZAO2, DOS ETS ZTR2.

(b) Examinations developed by the administrator.

(2) An applicant shall submit to the administrator, in addition to such other information as may be required, the following information:

(a) The name and home address of the applicant.

(b) The repair category or categories for which the applicant is applying.

(c) The number of years the applicant has worked as a motor vehicle mechanic for compensation, and the education or training the applicant has had to prepare him for work as a motor vehicle mechanic, specialty mechanic, or master mechanic.

(d) The states or jurisdiction in which the applicant is licensed or certified to work as a motor vehicle mechanic, specialty mechanic, or master mechanic.

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(e) A copy of an irrevocable appointment of the secretary of state as the applicant's agent for service of process.

History: 1954 ACS 86, p. 22, Eff. Mar. 1, 1976; 1954 ACS 94, p. 18, Eff. Jan. 14, 1978.

R 257.162 Applications; forms.

Rule 62. Applications, including those for certification, renewals, trainee permits, and replacement certificates or permits, shall be submitted on forms prescribed by the administrator.

History: 1954 ACS 86, p. 23, Eff. Mar. 1, 1976; 1954 ACS 94, p. 18, Eff. Jan. 14, 1978.

R 257.163 Examinations; times, scores, type.

Rule 63. (1) Examinations shall be given at places and times determined by the administrator.

(2) Results of the examinations shall not be final until approved by the administrator. Results of the examinations shall be forwarded to the applicant by the administrator or his authorized representative.

(3) Examinations shall be written, except that the administrator may allow a person to take an oral or practical examination if the person has special language problems which preclude the possibility of his passing a standard English language examination, or if he has been unsuccessful on the written examination. This exception shall be decided on an individual basis.

History: 1954 ACS 86, p. 23, Eff. Mar. 1, 1976.

R 257.164 Repair categories; specialty, master mechanics, automobiles and light trucks.

Rule 64. (1) Repair categories for the certification of specialty and master mechanics for automobiles and light trucks are:

(a) Engine repair.
(b) Automatic transmission.
(c) Manual transmission, front and rear axle.
(d) Front end and steering systems.
(e) Brakes and braking systems.
(f) Electrical systems.
(g) Heating and air conditioning.
(h) Engine tune-up.

(2) A person applying for certification as a specialty automobile mechanic shall pass an examination in the repair category which relates to his specialty. A person applying for certification as a master automobile mechanic shall pass an examination in all 8 repair categories.

(3) For purposes of these rules, "automobile and light truck" means a motor vehicle which has a gross vehicle weight less than 10,000 pounds.

History: 1954 ACS 86, p. 23, Eff. Mar. 1, 1976.

R 257.165 Repair categories; specialty and master mechanic certification; heavy-duty trucks; examination; "heavy-duty truck" defined.

Rule 65. (1) Repair categories for the certification of specialty or master mechanics for heavy-duty trucks are:

(a) Engine repair, gasoline.
(b) Engine repair, diesel.
(c) Drive trains.
(d) Brakes and braking systems.

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(e) Suspension and steering systems.

(f) Electrical systems.

(2) A person applying for certification as a specialty heavy-duty truck mechanic shall pass an examination in the repair category which relates to his specialty. A person applying for certification as a master heavy-duty truck mechanic shall pass an examination in all 6 repair categories.

(3) For purposes of these rules, "heavy-duty truck" means a motor vehicle has a gross vehicle weight of 10,000 pounds or more and includes both single unit and combination tractor trailer or tractor semitrailer vehicles.

History: 1954 ACS 86, p. 23, Eff. Mar. 1, 1976; 1954 ACS 94, p. 19, Eff. Jan. 14, 1978.

R 257.166 Master motorcycle mechanic.

Rule 66. A person applying for certification as a master motorcycle mechanic shall pass a motorcycle examination pertaining to all mechanical aspects of motorcycle repair. There shall not be a specialty motorcycle mechanic certificate.

History: 1954 ACS 86, p. 23, Eff. Mar. 1, 1976.

R 257.166a Recreational trailer mechanic certification; examination; "recreational trailer" defined.

Rule 66a. (1) A person applying for certification as a recreational trailer mechanic shall pass an examination pertaining to all mechanical aspects of the installation, service, and repair of such items of recreational trailer equipment as brakes, suspension, wheels, axles, including adaptations and alterations to towing vehicles, and other items of equipment on a recreational trailer required by sections 683 to 714a of Act No. 300 of the Public Acts of 1949, as amended, being §§257.683 to 257.714a of the Michigan Compiled Laws.

(2) For purposes of this rule, "recreational trailer" means a travel trailer, camper trailer, or other special purpose or utility trailer or semitrailer designed or intended to be drawn on the highway by an automobile or light truck having a gross towing vehicle weight of less than 10,000 pounds.

History: 1954 ACS 94, p. 19, Eff. Jan. 14, 1978.

R 257.167 Mechanic certification; effective date; renewal; functioning as mechanic after expiration date.

Rule 67. (1) A mechanic's certification shall take effect on the date it is approved by the administrator and shall expire 1 year from the date of issue, except that a mechanic's certificate approved prior to January 1, 1978, shall expire on December 31, 1978. A mechanic's certification may be renewed annually upon payment of the required renewal fee.

(2) A certified motor vehicle mechanic may continue to function as a certified mechanic after the expiration date without a certificate, pending approval of the renewal application, if the renewal application has been received by the administrator on or before the expiration date. If a renewal application is filed after the expiration date, the motor vehicle mechanic may temporarily engage in repairs without a certificate from the day on which the application is received by the administrator, pending approval of the renewal application. A renewal fee of 1½ times the standard renewal fee shall be imposed if the application is filed after the expiration date.

History: 1954 ACS 86, p. 23, Eff. Mar. 1, 1976; 1954 ACS 94, p. 19, Eff. Jan. 14, 1978.

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R 257.168 Loss, destruction, or mutilation of certificate or trainee permit; replacement.

Rule 68. In the event of loss, destruction, or mutilation of a certificate or permit, the person to whom the certificate or permit was issued may obtain a replacement upon furnishing satisfactory proof of loss, destruction, or mutilation. Application for a replacement certificate or permit shall disclose the following information:

(a) Name and address of applicant.

(b) An explanation of the loss, destruction, or mutilation of the original certificate or trainee permit.

History: 1954 ACS 86, p. 24, Eff. Mar. 1, 1976; 1954 ACS 94, p. 19, Eff. Jan. 14, 1978.

R 257.169 Examination and certificate fees; mechanic and trainee.

Rule 69. (1) Fees shall accompany forms which are required to be submitted. The examination fees and the certificate fees for the certification of mechanics shall be as follows:

(a) Each certification examination administered by the administrator, $5.00.

(b) Application for original certification, $20.00.

(c) Renewal certificate, $15.00.

(d) Replacement certificate, $5.00.

(2) The permit fees for the mechanic trainee shall be as follows:

(a) Application for trainee permit, $20.00.

(b) Replacement of trainee permit, $5.00.

History: 1954 ACS 86, p. 24, Eff. Mar. 1, 1976; 1954 ACS 94, p. 19, Eff. Jan. 14, 1978.

R 257.170 Display of certificate; certification number.

Rule 70. A certified mechanic shall display, in a conspicuous location in the place of business, a current and valid certificate issued by the administrator. A certified mechanic who works on, inspects and approves, or supervises a repair, shall affix his name and certification number, as assigned by the administrator, to the written statement of repairs given the customer.

History: 1954 ACS 86, p. 24, Eff. Mar. 1, 1976; 1954 ACS 94, p. 20, Eff. Jan. 14, 1978.

DEALER LICENSING DIVISION

LICENSING VEHICLE BROKERS

(By authority conferred on the secretary of state by section 204 of Act No. 300 of the Public Acts of 1949, as amended, being §257.204 of the Michigan Compiled Laws)

R 257.181 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws.

(b) "Administrator" means the secretary of state or any person designated by him to act in his place.

(c) "Broker" means a person who for a consideration does or offers to do at least 1 of the following with respect to the sale, purchase, or exchange of a vehicle of a type required to be registered under the act and with respect to which he does not have title or other legal interest:

(i) Brings together the buyer and seller.

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(ii) Negotiates the terms of a transaction.

(iii) Shows or displays a vehicle.

"Broker" does not include a person employed by a licensed class A, class B, or class C dealer, while acting within the scope of his employment.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 94, p. 20, Eff. Feb. 8, 1978.

R 257.182 Address of administrator.

Rule 2. The official address of the administrator for delivery and receipt of all mail, telegrams, information, filings, registrations, applications, and other material required by the act or these rules is:

Department of State
Bureau of Automotive Regulation
Lansing, Michigan 48918

History: 1954 ACS 94, p. 20, Eff. Feb. 8, 1978.

R 257.183 Declaratory rulings.

Rule 3. (1) The administrator, on written request of an interested person, may issue a declaratory ruling as to the applicability to an actual statement of facts of the act or these rules upon submission of the following:

(a) A clear and concise statement of the actual statement of facts.

(b) If the interested person desires, a brief or other reference to legal authorities upon which he relies for determination of the applicability of the act or these rules to the statement of facts.

(2) A declaratory ruling shall include the actual statement of facts, the legal authority on which the department relies for its ruling, if any, and the ruling it makes. A ruling once issued is binding on the administrator and it may not retroactively be changed, but nothing in this rule shall prohibit the administrator from prospectively changing a ruling.

History: 1954 ACS 94, p. 20, Eff. Feb. 8, 1978.

R 257.184 Classification of dealers; licenses.

Rule 4. (1) A person who sells new vehicles shall be issued, upon approval of the person's application by the administrator, a class A license. A dealer who has been issued a class A license may sell new vehicles, used vehicles, and vehicle parts.

(2) A person shall be issued, upon approval of the person's application by the administrator, a class B license if the person shall only buy and sell used vehicles and vehicle parts.

(3) A person shall be issued, upon approval of the person's application by the administrator, a class C license if the person shall only buy and hold vehicles to be torn down for the purpose of selling the component parts thereof individually, or vehicles to be scrapped.

(4) A person shall be issued, upon approval of the person's application by the administrator, a class D license if the person shall only operate as a broker in vehicle sales. A person licensed as a class A, class B, or class C dealer shall not be licensed as, or function as, a broker.

History: 1954 ACS 94, p. 20, Eff. Feb. 8, 1978.

R 257.185 Brokering of new vehicles.

Rule 5. A broker shall, in the brokering of new vehicles, deal through a licensed class A dealer in this state.

History: 1954 ACS 94, p. 21, Eff. Feb. 8, 1978.

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R 257.186 Brokering of used vehicles; requirements.

Rule 6. (1) A broker is not required, in the brokering of used vehicles, to deal through a licensed vehicle dealer.

(2) In a used vehicle transaction where neither the buyer nor seller is a licensed vehicle dealer, the broker shall apply for title and registration for the vehicle in the name of the buyer, as provided in section 217(b) of the act, and shall submit taxes due on the transaction.

History: 1954 ACS 94, p. 21, Eff. Feb. 8, 1978.

R 257.187 Advertising.

Rule 7. When a broker shall advertise, the advertisement shall include a disclosure of the advertiser's identity as a broker.

History: 1954 ACS 94, p. 21, Eff. Feb. 8, 1978.

R 257.188 Purchase agreement; terms.

Rule 8. A broker negotiating the sale of a vehicle shall draw up, prior to consummation of the sale, a purchase agreement which shall be in addition to, and shall not differ in its terms from, any other papers, forms, or documents required by the act or otherwise executed between the buyer and the seller of the vehicle. A copy shall be retained by the broker, with copies provided to the buyer and the seller at the time of their signing. The purchase agreement shall be on a form prescribed by the administrator, shall be dated not later than the actual date of delivery of the vehicle to the buyer, and shall contain all of the following information:

(a) The name and address of the buyer.

(b) A description of the vehicle including make, model year, vehicle identification number, body style, and dealer and factory-installed accessories.

(c) The name and address of the seller.

(d) The name and address of the broker.

(e) Date of delivery.

(f) Odometer reading.

(g) Total price.

(h) Down payment.

(i) A statement signed by the broker certifying that the terms of all warranties applicable to the vehicle have been fully disclosed to the buyer.

(j) Signatures of buyer, seller, and broker.

History: 1954 ACS 94, p. 21, Eff. Feb. 8, 1978.

R 257.189 Broker's fee in writing.

Rule 9. Before a broker shall charge a fee, a written document shall be drawn up and signed by the broker and the person paying the fee, with a copy provided at the time of signing to the person paying the fee and a copy retained by the broker. The document shall clearly set forth all of the following:

(a) The amount of the fee, except in a transaction involving a new vehicle.

(b) When, in what manner, and under what circumstances the fee is payable, except in a transaction involving a new vehicle.

(c) The amount of any deposit required in advance and whether and under what circumstances the deposit or any portion of it shall be refunded.

(d) The length of time for which the broker's services are contracted.

(e) Any other terms agreed upon by the signers.

History: 1954 ACS 94, p. 21, Eff. Feb. 8, 1978.

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R 257.190 Records.

Rule 10. A broker shall be required to maintain for a period of not less than 3 years from their making, copies of all purchase agreements, bills of sale, and other papers and documents relating to transactions negotiated and fees charged by the broker.

History: 1954 ACS 94, p. 22, Eff. Feb. 8, 1978.

R 257.191 Established place of business; requirements.

Rule 11. A broker shall maintain an established place of business, approved by the administrator, at which place the broker shall keep all required books and records, maintain posted business hours, and conduct a large share of his business. A broker's established place of business shall not be occupied as the established place of business of another licensed vehicle dealer.

History: 1954 ACS 94, p. 22, Eff. Feb. 8, 1978.

BUREAU OF DEPARTMENT SERVICES

TANKER LOAN PROGRAM

(By authority conferred on the department of state by section 7 of Act No. 387 of the Public Acts of 1978, being §257.937 of the Michigan Compiled Laws)

R 257.201 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 387 of the Public Acts of 1978, being §257.931 et seq. of the Michigan Compiled Laws.

(b) "Applicant" means a motor carrier or private carrier who is the owner of a vehicle required to be replaced or modified under the code.

(c) "Code" means Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws and known as the Michigan vehicle code.

(d) "Debtor" means an applicant who has received a loan under these rules that has not been repaid in full to the state of Michigan.

(e) "Department" means the department of state, its agents, and employees.

(f) "Fire marshal's inspection" means the hazardous cargo inspections carried out by the fire marshal division of the department of state police pursuant to the governor's directive of September 23, 1977, and Act No. 3 of the Public Acts of 1978, being §29.1 et seq. of the Michigan Compiled Laws.

(g) "Legal capacity" means the actual capacity of a vehicle or 9,000 gallons whichever is less.

(h) "Motor carrier" means a carrier possessing a certificate of public convenience and necessity, or a permit to operate as a motor carrier from the public service commission.

(i) "Nonreplaceable capacity" means 9,000 times the number of units that have a capacity between 9,000 and 9,500 gallons inclusive and meet the requirements of section 722 of the code or can be feasibly modified to meet the requirements of that section.

(j) "Owner" means either of the following:

(i) A motor carrier or private carrier who holds legal title to a truck, truck tractor, trailer, or semitrailer, as those terms are defined in the code.

(ii) A motor carrier or private carrier renting a truck, truck tractor, trailer, or semitrailer, as those terms are defined in the code, or having exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

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(k) "Principal business" means that business which generated more than 50% of the private carrier's total revenue from all business activities as that revenue was reported in the private carrier's most recently filed federal income tax return as gross income before taxes.

(l) "Private carrier" means a carrier whose principal business is the distribution of the carrier's own petroleum products to consumers and retailers of those products in Michigan.

(m) "Replacement capacity" means total capacity minus nonreplaceable capacity minus the legal capacity of replacement units for which money has already been loaned. Replacement capacity of not less than 3,000 gallons, but not more than 9,000 gallons, shall be considered to be 9,000 gallons. Replacement capacity of less than 3,000 gallons shall be considered to be zero gallons.

(n) "Replacement unit" means a vehicle, including a truck, truck tractor, and semitrailer, as those terms are defined in the code, that is chosen by an applicant to meet the requirements of section 722 of the code.

(o) "Total capacity" means the gallon capacity of a carrier to transport petroleum products with a flash point at or below 70 degrees Fahrenheit as that capacity existed at the time of the fire marshal's inspection of the carrier's vehicle.

History: 1954 ACS 99, p. 22, Eff. Apr. 26, 1979.

R 257.202 Loan application.

Rule 2. (1) An application for a loan under these rules shall be submitted to the department on forms prescribed for that purpose. Forms may be obtained from, and applications submitted to, the following organization:

Michigan Department of State
Bureau of Department Services
Finance Division
Lansing, Michigan 48918

(2) The applicant shall complete all applicable entries on the form before the department receives the application. An applicant shall sign the application form and certify that the information in it is true, correct, and complete.

(3) Upon receipt by the department, an application shall be dated and assigned an application number.

(4) A loan application shall include all of the following items:

(a) The applicant's Michigan public service commission certificate of public convenience or permit number, if the applicant is a motor carrier.

(b) A statement regarding type of business activities engaged in during the previous year with a corresponding percentage of income from each.

(c) Credit information as required on the form.

(d) Extent and cost of replacement or modification sought.

(e) Need for replacement or modification.

(f) Vehicle identification number and full description of vehicle being replaced or modified.

(g) Copy of vehicle title and registration of vehicle being replaced or modified, and a copy of any lease agreement affecting the vehicle.

(h) Copy of purchase order, modification agreement, or receipt for modification work done or purchase made.

(i) Copy of hazardous cargo inspection form or other information indicating that the vehicle to be replaced or modified was inspected during the fire marshal's inspection.

(j) Vehicle identification number and full description of all the carrier's vehicles that underwent the fire marshal's inspection.

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(k) Identification of all vehicles that have a capacity between 9,000 and 9,500 gallons inclusive and meet the requirements of section 722 of the code or can be feasibly modified to meet the requirements of that section.

(5) The presence of the applicant may be required by the department during the review of the application.

(6) The department, based upon the application, the criteria set out in these rules, the act, and any additional information considered necessary in taking final action, shall approve or disapprove the loan application. Notice of the status of the loan application shall be sent within 30 days of the filing of the application.

(7) The department shall notify the applicant when a loan is disapproved and shall state the reasons for disapproval.

(8) A loan for modification shall be approved in a specified amount. Following loan approval, and upon proper execution or completion of the loan agreement, the department shall disburse the approved amount.

(9) A loan for a replacement unit shall be approved in the amount of the estimated cost of the unit. When the actual total cost becomes known to the applicant, the debtor shall submit a purchase agreement for that amount to the department.

(10) Upon receipt of the purchase agreement for a replacement unit and upon proper execution or completion of a loan agreement, the department shall disburse the loan for the total actual cost set out in the purchase agreement if that cost is reasonably related to the estimated cost for which the loan was approved.

History: 1954 ACS 99, p. 22, Eff. Apr. 26, 1979.

R 257.203 Criteria for approving or disapproving loans.

Rule 3. (1) A vehicle to be replaced with loan money under this program shall have a valid Michigan title and registration.

(2) Replacement units shall have a gallon capacity of not greater than 9,500 gallons nor less than 8,000 gallons. A loan shall not be approved for the replacement of a truck tractor.

(3) The department shall consider the applicant's creditworthiness, as determined by the applicant's credit rating, past, present, and estimated income, years in business, and other factors ordinarily considered by lending institutions in approving or disapproving commercial loans.

(4) A trade-in of a vehicle for which a replacement unit is purchased is required if a market for such vehicles exists. A vehicle replaced but not traded in shall not be used in any manner that would permit the carrier to legally exceed its total capacity by more than 6,000 gallons.

(5) In computing capacity, the department shall consider only the capacity of a vehicle that was included in computing the carrier's total capacity and the capacity of a vehicle for which a loan was granted under these rules.

(6) A loan shall not be made to the extent that it would allow a carrier to exceed total capacity by more than 6,000 gallons.

(7) A vehicle being replaced or modified shall not already meet the requirements of sections 722(i), (j), (k), or (l) of the code, except that if a vehicle has been modified or replaced subsequent to the effective date of the act to meet its requirements, the carrier may then be eligible for a loan under these rules.

(8) When money is loaned under these rules, a security interest shall be created in the modified vehicle or the replacement unit. When a security interest is created in a vehicle, the debtor shall apply to the department for a corrected title indicating the state of Michigan as a lienholder.

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(9) When money is loaned for the purchase of a replacement unit, the state of Michigan shall be the first secured party. The department shall imprint on the back of the check, issued for the purchase of a unit, the information required under section 217(d) of the code.

History: 1954 ACS 99, p. 23, Eff. Apr. 26, 1979.

R 257.204 Loan agreement.

Rule 4. Before proceeds of a loan are disbursed, a loan agreement shall be signed by the applicant and the department, and shall include all of the following information:

(a) The total amount, including the interest charged, shall be set out in the loan agreement. Four percent simple interest shall be charged on the loaned amount.

(b) A loan repayment schedule shall be established by agreement between the department and the debtor. The length of the repayment period shall not exceed 5 years.

(c) The debtor shall make the first payment 30 days after the loan agreement is signed and subsequent payments every 30 days thereafter during the repayment period.

(d) A monthly payment shall not be less than $200.00.

(e) A late fee in the amount of 10% of the monthly payment shall be assessed and added to the monthly payment when the payment becomes 10 or more days late.

History: 1954 ACS 99, p. 24, Eff. Apr. 26, 1979.

R 257.205 Default.

Rule 5. (1) The debtor shall be in default if a monthly payment becomes more than 30 days past due.

(2) A debtor in default shall pay the entire balance owing on the loan, including interest, upon demand.

(3) Upon default, the department may exercise those rights given to creditors by law, except that the department shall not exercise the right given in subsection (2) of section 9505 of Act No. 174 of the Public Acts of 1962, as amended, being §440.9505(2) of the Michigan Compiled Laws, to retain collateral in satisfaction of the obligation, and the department shall not sell collateral other than at a public sale.

(4) Default may occur upon a finding by the department that loan money has been misused under the act and these rules.

History: 1954 ACS 99, p. 24, Eff. Apr. 26, 1979.

R 257.206 Misuse of loan; audit; inspection.

Rule 6. A loan under the act and these rules shall be used only for the purpose stated. Use of the loaned funds shall be subject to audit. A vehicle being replaced or modified and a replacement unit shall be subject to on-site inspection. Unauthorized use of loan money may result in default or in the seeking of other legal remedies against the debtor.

History: 1954 ACS 99, p. 24, Eff. Apr. 26, 1979.

BUREAU OF DRIVER AND VEHICLE SERVICES

SPECIAL PARKING PRIVILEGES

(By authority conferred on the secretary of state by sections 204 and 675 of Act No. 300 of the Public Acts of 1949, as amended, being §§257.204 and 257.675 of the Michigan Compiled Laws)

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R 257.801 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws.

(b) "Blind" or "blindness" means an impairment of both eyes as follows: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance not greater than 20 degrees in the better eye.

(c) "Facility" means a publicly or privately operated legal entity which provides specialized services to 6 or more handicappers. Facility includes a foster care facility, nursing home, retirement home, home for the aged, health facility, mental facility, and an educational facility which provides services to handicappers.

(d) "Handicap" means a physical impairment or condition which may have resulted from disease, injury, functional disorder, or age, which necessitates the use of a wheelchair or crutches; causes a person to walk with significant difficulty or insecurity; significantly reduces ambulatory coordination, flexibility, or mobility; exposes a person to danger if prolonged ambulation occurs; or results in blindness.

(e) "Obvious" means easily observed and recognized without further evidence by a person not trained in medicine.

(f) "Permanent handicap" means a handicap for which there is a present medical expectation that the handicap will persist for more than 4 years.

(g) "Temporary handicap" means a handicap for which there is a present medical expectation that the handicap will persist for not more than 4 years.

(2) A term defined in the act has the same meaning when used in these rules.

History: 1954 ACS 101, p. 21, Eff. Oct. 2, 1979.

R 257.802 Certificate of identification as handicapper.

Rule 2. (1) The secretary of state may issue 6-month and 4-year certificates of identification pursuant to section 675 of the act and these rules.

(2) A certificate of identification shall be issued or renewed upon application and a proper showing of eligibility.

(3) A handicapper applying for a certificate of identification shall submit, as part of the application, a medical statement attesting to the fact that the handicapper possesses a temporary or permanent handicap. An application need not be accompanied by a medical statement in either of the following situations:

(a) The handicapper personally applies for a certificate of identification at a branch office of the secretary of state and it appears obvious to the person accepting the application that the applicant possesses a handicap.

(b) The handicapper possesses a permanent handicap and the application is for a renewal certificate of identification.

(4) A handicapper who possesses a temporary handicap shall receive a 6-month certificate of identification and a handicapper who possesses a permanent handicap shall receive a 4-year certificate of identification.

(5) A certificate of identification issued before the effective date of these rules shall expire 6 months after these rules take effect. A handicapper who possesses such a certificate may apply for a 6-month or 4-year certificate of identification, depending upon the nature and duration of his or her handicap.

(6) A certificate of identification shall not be used by a person whose handicap no longer persists, even if the certificate has not yet expired.

History: 1954 ACS 101, p. 21, Eff. Oct. 2, 1979.

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R 257.803 Application by facility for special registration plate.

Rule 3. (1) A facility may apply for and receive a special registration plate for a motor vehicle owned by the facility and used to transport handicappers who receive services from the facility.

(2) A statement to the effect that the vehicle will be used for the purpose of transporting handicappers and will be parked in a space reserved for use by handicappers only when handicappers are being transported shall accompany each application from a facility for a special registration plate.

(3) A motor vehicle bearing a special registration plate issued pursuant to subrule (1) shall not be parked in a special parking place unless the vehicle will imminently be used to transport 1 or more handicappers.

History: 1954 ACS 101, p. 22, Eff. Oct. 2, 1979.

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DEPARTMENT OF NATURAL RESOURCES

LAW ENFORCEMENT DIVISION

STATE AID FOR SNOWMOBILE SAFETY PROGRAMS

(By authority conferred on the department of natural resources by section 4b of Act No. 74 of the Public Acts of 1968, being §257.1504b of the Michigan Compiled Laws)

R 257.1501 Definitions.

Rule 1. (1) "Act" means Act No. 74 of the Public Acts of 1968, as amended, being §§257.1501 to 257.1517a of the Michigan Compiled Laws.

(2) "Authorized expenditures" means those expenditures incurred and determined by the director to be reasonable and necessary for the conduct of a snowmobile enforcement and safety training program.

(3) "Authorized expenditures actually incurred" means the expenditures of funds actually made during the past calendar year for the conduct of the snowmobile enforcement and safety education training program.

(4) "Department" means the department of natural resources.

(5) "Director" means the director of the department of natural resources.

(6) "Estimate of authorized expenditures" means the estimate of funds to be expended for the conduct of the snowmobile enforcement and safety education program for the following calendar year as approved by the county board of commissioners.

(7) "General supervisory duties" means having jurisdiction over more than snowmobile and marine activities.

(8) "Proration of funds" means equitable appropriations to counties if funds are insufficient to pay the full amount to which counties are entitled.

History: 1954 ACS 77, p. 5, Eff. Nov. 10, 1973.

R 257.1502 Requests for state aid.

Rule 2. The board of commissioners of any county requesting state aid for the conduct of a snowmobile safety and enforcement program shall submit to the department by November 1 of each year an estimate of authorized expenditures for the following calendar year on forms furnished by the department. The estimate of authorized expenditures shall consist of a complete statement on the type and extent of snowmobile safety and enforcement program to be conducted including equipment required, and a certification that the board of commissioners has appropriated the funds indicated on the estimate of authorized expenditures. Submission of an estimate of authorized expenditures by a county is an agreement by the county to comply with these rules.

History: 1954 ACS 77, p. 6, Eff. Nov. 10, 1973.

R 257.1503 Conduct of a snowmobile safety and enforcement program.

Rule 3. Counties participating in a snowmobile safety and enforcement program may be limited to 4 calendar months of program participation within the calendar year.

History: 1954 ACS 77, p. 6, Eff. Nov. 10, 1973.

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R 257.1504 Snowmobile safety and enforcement functions.

Rule 4. (1) Equipment, purchased with state matching funds or included in a claim for which reimbursement has been made in accordance with the act and these rules, shall be used exclusively in the conduct of the snowmobile safety and enforcement program.

(2) Snowmobile laws and rules applicable to the jurisdiction of the county shall be enforced.

(3) Court dispositions shall be submitted periodically on forms prescribed by the department.

(4) Snowmobile accidents occurring within the county's jurisdiction shall be investigated and reports submitted as required by statute.

(5) Equipment purchased or leased under the state aid program shall be made available to the director or his authorized representative for the purpose of inspection, investigation, or other official duties.

(6) Snowmobiles and snowmobile trailers may be procured through centralized purchasing by the state department of administration for the department and for counties requesting snowmobiles and trailers in their annual budget request.

History: 1954 ACS 77, p. 6, Eff. Nov. 10, 1973.

R 257.1505 Personnel; wages and salaries.

Rule 5. (1) Personnel assigned to snowmobile safety and enforcement duties shall meet the age, mental and physical requirements prescribed for other full-time employees of the county sheriff's department.

(2) Daily time report records shall be maintained for each employee assigned to snowmobile safety training and enforcement duties. Reimbursement to the county shall be made for hours actually worked in the snowmobile safety and enforcement program and documented by daily time records.

(3) Hourly pay rates for personnel assigned to snowmobile safety and enforcement duties shall not exceed the hourly pay rates of other personnel assigned to similar duties within the county sheriff's department.

(4) Personnel assigned to snowmobile safety and enforcement duties shall not be paid overtime or premium pay unless such personnel have worked in excess of 40 hours on snowmobile safety and enforcement duties in a scheduled work week. Overtime pay may be paid for hours in excess of 40 hours if approved by the county sheriff or immediate supervisor.

(5) Personnel providing snowmobile safety training shall not require students to purchase additional training materials, certificates or safety brassards.

(6) The power and authority of personnel who have not completed the required hours of training pursuant to Act No. 203 of the Public Acts of 1965, as amended, being §§28.601 to 28.616 of the Michigan Compiled Laws shall be restricted to enforcement of the act.

(7) An employee of the county sheriff's department assigned to general supervisory duties is not eligible to receive payment of salaries or wages from snowmobile state aid funds.

History: 1954 ACS 77, p. 6, Eff. Nov. 10, 1973.

R 257.1506 Records, reports, and publicity.

Rule 6. (1) Records shall be kept pertaining to snowmobile violations, snowmobile related accidents, number of students trained, public meetings attended, daily vehicle mileage, daily personnel time reports and expenditures from the general fund under activity no. 136, sheriff-law enforcement assistance—snowmobiles.

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(2) The county snowmobile safety and enforcement fund shall be audited by the local audit division, bureau of local government services, department of treasury, during the course of their routine annual examination of the records of county offices or at such time as the department deems an audit necessary or desirable. Records shall be retained for a period of 1 year after the department of treasury has audited the account of the snowmobile safety and enforcement program.

(3) Public information provided by the department shall be distributed.

(4) Local publicity shall be disseminated regarding existing laws and rules and new laws and rules which may be established. Persons shall be provided with information regarding safe methods of snowmobile operation.

(5) Reports shall be submitted to the department as may be required by the director or his authorized representative.

(6) A detail of authorized expenditures actually incurred submitted to the department shall be certified as true and correct.

History: 1954 ACS 77, p. 7, Eff. Nov. 10, 1973.

R 257.1507 County restricted snowmobile safety and enforcement funds.

Rule 7. The county treasurer or fiscal officer shall establish a fund for the county appropriations for the conduct of a snowmobile safety and enforcement program for the calendar year. Expenditures shall be budgeted and paid from the county general fund—activity no. 136, sheriff-law enforcement assistance—snowmobiles. The function is public safety, 104-136—expense account. Expenditures from the fund shall be made solely for the personnel payroll and authorized expenditure costs of the snowmobile safety and enforcement program.

History: 1954 ACS 77, p. 7, Eff. Nov. 10, 1973.

R 257.1508 State aid vouchers.

Rule 8. (1) Expenditures not in accordance with the act or approved on the budget request summary, or in accordance with these rules shall not be approved and shall be deducted from the statement of authorized expenditures.

(2) Certification for payment shall be made for 75% of the final approved statement of authorized expenditures.

(3) If the amount appropriated by the legislature for state aid to counties is insufficient to pay the full amount to which counties are entitled, the department shall prorate available appropriations equitably among the various counties.

(4) The director or his authorized representative may certify for payment 75% of the approved total of a state aid voucher which exceeds the estimate of authorized expenditures, if funds are available for state aid to counties.

History: 1954 ACS 77, p. 7, Eff. Nov. 10, 1973.

R 257.1509 Authorized expenditures.

Rule 9. (1) Seventy-five percent of the personnel payroll and approved expenditures made in accordance with the schedule of authorized expenditures shall be reimbursable to the county upon submission of a state aid voucher. Prior written approval for an expenditure not on the schedule of authorized expenditures shall be obtained from the department in order to qualify for reimbursement as an authorized expenditure.

(2) If authorized equipment purchased with state aid matching funds is in need of replacement or reimbursement has been included in a state aid voucher, the trade-in value or fair market value shall not be included in the state aid voucher for reimbursement for the purchase of new equipment.

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(3) Receipts accruing from refund gas tax monies or from the sale of equipment purchased with state aid funds shall be deposited to the credit of the county general fund, activity no. 136, sheriff-law enforcement assistance—snowmobiles.

(4) The cost of replacing authorized equipment which has been lost or destroyed, less any amount which may be received from insurance coverage, may be included on a state aid voucher. Prior written approval shall be obtained from the department for replacement of such equipment.

History: 1954 ACS 77, p. 7, Eff. Nov. 10, 1973.

R 257.1510 Withholding and denying payment of claims.

Rule 10. (1) The department may withhold payment of a state aid voucher claim pending investigation of the detailed expenditures of the claim.

(2) The department may deny all or partial payment of a state aid voucher claim which it deems is not in accordance with the schedule of authorized expenditures incurred which were not authorized in an approved written procedure.

(3) The department may deny all or partial payment of a state aid voucher claim if any portion of the claim contains statements which are found to be false or submitted with the intent to defraud.

(4) The department may deny all or partial payment of a state aid voucher claim for payroll funds paid to personnel not meeting the physical or mental standards prescribed by these rules.

(5) The department may deny all or partial state aid payment to any county deemed by the department as not conducting an adequate snowmobile safety and enforcement program. Failure to comply with any part of these rules is grounds for nonpayment pursuant to the state aid formula for reimbursement to counties.

(6) A county participating in the state aid snowmobile safety and enforcement program may request the director or his authorized representative to conduct an informal hearing in any determination of denying reimbursement of state aid for a violation of these rules.

History: 1954 ACS 77, p. 8, Eff. Nov. 10, 1973.

R 257.1511 Discontinuance of county participation.

Rule 11. If a county discontinues participation in the state aid program, the county clerk shall notify the department by November 1 of the year prior to discontinuance, of the county's decision by certified resolution. Upon submission of a state aid voucher for the final calendar year of county participation, a deduction shall be made from the total state aid voucher of the fair market value of all authorized equipment previously included in a claim for which reimbursement has been made in accordance with the act and these rules. If the fair market value of such authorized equipment exceeds the total claim for the final calendar year of county participation, 75% of such excess shall be refunded to the department by the county and deposited in the state general fund.

History: 1954 ACS 77, p. 8, Eff. Nov. 10, 1973.

PLACEMENT OF ORV DECAL

(By authority conferred on the commission of natural resources by section 6 of Act No. 319 of the Public Acts of 1975, as amended, being §257.1606 of the Michigan Compiled Laws)

R 257.1691 Placement of ORV decal.

Rule 1. The registration decal for an off-road recreation vehicle shall be permanently attached to the vehicle and shall be visibly displayed in the following manner:

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(a) For a 2-wheel vehicle, it shall be centered on the exposed surface of the rear fender.

(b) For a 3- or 4-wheel multitrack or multiwheeled vehicle, it shall be attached and visible on a flat metal surface, bumper, or plate permanently attached to the rear of the vehicle.

(c) For an amphibious machine, or for a ground effect air-cushioned vehicle, it shall be centered on the rear thereof.

History: 1954 ACS 87, p. 6, Eff. May 11, 1976; 1954 ACS 100, p. 69, Eff. July 11, 1979.

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DEPARTMENT OF TRANSPORTATION

AERONAUTICS COMMISSION

R 259.1—R 259.100 Superseded.

History: 1944 ACS 18, pp. 5-24; 1954 AC, pp. 1203-1224; superseded 1954 ACS 12, pp. 12-26, Eff. Nov. 26, 1957.

R 259.101—R 259.200 Rescinded.

History: 1954 ACS 12, pp. 12-27, Eff. Nov. 21, 1957; 1954 ACS 35, pp. 17, 18, Eff. Aug. 14, 1963; 1954 ACS 50, pp. 11, 12, Eff. May 15, 1967; rescinded 1954 ACS 52, p. 20, Eff. Nov. 15, 1967.

GENERAL RULES

(By authority conferred on the aeronautics commission by section 51 of Act No. 327 of the Public Acts of 1945, as amended, section 2 of Act No. 257 of the Public Acts of 1955, section 11 of Act No. 259 of the Public Acts of 1959, and Executive Reorganization Order Nos. 1973-1 and 1973-1a, being §§259.51, 259.672, 259.491, and 247.821 of the Michigan Compiled Laws)

PART 1. DEFINITIONS

R 259.201 Statutory definitions.

Rule 201. The words and phrases defined in the following acts have the same meanings when used in these rules:

Public Act	Year	1948 Compiled Law Sections
327	1945	259.1—259.208
23	1950 (Ex. Ses.)	259.431—259.464
257	1955	259.671—259.692
259	1959	259.481—259.493

History: 1954 ACS 52, p. 5, Eff. Nov. 15, 1967.

PART 2. LICENSES AND REGISTRATION

R 259.221 Exemptions from registration and certification.

Rule 221. The following are exempted from the registration and certificate requirements of this part of the rules: aircraft operated by a state or political subdivision thereof, the United States government, or licensed by a foreign country with which the United States has reciprocal agreements, if they are not engaged in any commercial activity within this state, and any aircraft and airman engaged in scheduled interstate commercial operations. A resident of another state, who has complied with registration requirements of that state, may operate within this state for not to exceed 90 days in any 1 year.

History: 1954 ACS 52, p. 5, Eff. Nov. 15, 1967.

R 259.222 Applications.

Rule 222. An application for licensing and registration shall be made on forms provided by the commission, Capital City Airport, Lansing, Michigan 48906, and shall be signed and sworn to by the applicant. The license or registration shall be issued subject to approval of the commission.

History: 1954 ACS 52, p. 6, Eff. Nov. 15, 1967.

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R 259.223 Fees.

Rule 223. (1) Fees shall be paid to the commission in the form of a check, money order, or bank draft, payable to the State of Michigan, Michigan Aeronautics Commission, or in the form of cash paid in person.

(2) The aircraft registration fee is ¼ cent per pound of net empty weight, payable annually before August 1. A registration certificate issued after February 1 is issued for 50% of the annual fee. The fee for transfer of an aircraft registration is $1.00.

(3) The fees for general registration numbers for an aircraft manufacturer, an aircraft engine manufacturer, or a dealer in aircraft, are $9.00 for the first three numbers, and $3.00 for each additional number. General registration numbers shall be issued annually and the fees therefor are payable before August 1. They shall be used only for aircraft used for testing, ferrying or demonstrations for the purpose of sales and not for any other commercial activity.

(4) The initial fee for an airport is $25.00 and the annual renewal fee is $10.00. The license renewal fee shall be paid before November 1 of each year. Failure to comply requires payment of another initial fee. Licenses for a subsequent year shall not be issued before October 1.

(5) A temporary field permit may be issued upon application, accompanied by a $2.00 fee, for use by applicant for not to exceed 15 days. Permits may be granted for succeeding 15-day periods.

(6) The initial fee for a flight or ground school is $25.00 and the annual renewal fee is $10.00, payable from original date of issue. Failure to renew prior to expiration date requires filing of an initial application and payment of another initial fee. A state-approved flight school is exempt from a ground school fee; a public college or university is exempt from a flight or ground school fee.

(7) The fee for scheduled commercial intrastate operations registration is $25.00.

(8) For a flying club registration is mandatory but no fee is required.

(9) For a pilot registration is mandatory.

(10) For an airport manager or assistant airport manager the initial fee is $2.00 and the annual renewal fee is $2.00, payable before November 1.

(11) For a flight or ground instructor the initial fee is $1.00 and the annual renewal fee is $1.00, payable from original date of issue.

History: 1954 ACS 52, p. 6, Eff. Nov. 15, 1967.

R 259.224 Display of registration certificates and permits.

Rule 224. The state registration certificate shall be displayed in a conspicuous place in the aircraft at all times. Decals furnished by the commission shall be placed near the top of each side of the vertical stabilizer of the aircraft. On aircraft with multiple stabilizers, decals shall be placed on the outboard side of each outboard fin, and on helicopters immediately adjacent to the U.S. registration number.

History: 1954 ACS 52, p. 6, Eff. Nov. 15, 1967.

R 259.225 Transfers of licenses.

Rule 225. A license issued under these rules shall not be transferred, either in its ownership or geographical location, unless the transfer is approved in writing by the commission. Within 48 hours of the sale of an aircraft, the recorded owner shall return to the commission the registration certificate with the name and residence of the purchaser. The puchaser, within 48 hours, shall apply for transfer of the certificate.

History: 1954 ACS 52, p. 6, Eff. Nov. 15, 1967.

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R 259.226 Inspections.

Rule 226. Personnel of the commission, licensed airport managers and their assistants, the Michigan state police, and other law enforcement agencies authorized to enforce the Michigan aeronautics code, the rules and regulations adopted thereunder, and federal aviation laws, shall be permitted at any time and place to make such inspection as deemed necessary to determine compliance with the Michigan aeronautics code and these rules and regulations.

History: 1954 ACS 52, p. 6, Eff. Nov. 15, 1967.

PART 3. SUSPENSION AND REVOCATION OF LICENSES

R 259.231 Suspension and revocation.

Rule 231. The commission or its duly authorized representative, after consideration of the issues of fact and after hearing held, may suspend or permanently revoke, or both, a license or letter of authority of any person who:

(a) Knowingly forges, counterfeits, alters or falsely makes a certificate authorized to be issued under these rules, or uses or attempts to use any such certificate.

(b) Knowingly makes a false statement in an application for a license or registration or in a report required by the commission.

(c) Violates a condition or provision of a license or letter of authority issued by the commission.

(d) Fails to render reports requested by, and within the time limits prescribed by, the commission.

(e) Fails to maintain the minimum standards determined by the commission.

(f) Commits an act on the part of a school by an instructor or representative which is deemed contrary to public safety or to the proper training of students enrolled therein.

(g) Fails to comply, in whole or in part, with any rule or regulation issued by the commission.

(h) Fails to abate a hazard certified by the commission.

History: 1954 ACS 52, p. 7, Eff. Nov. 15, 1967.

R 259.232 Surrender of licenses and letters of authority.

Rule 232. The commission, upon suspending or revoking a license or letter of authority, shall require that it be surrendered to the commission.

History: 1954 ACS 52, p. 7, Eff. Nov. 15, 1967.

PART 4. AIRPORT CLASSIFICATION

R 259.241 Scope of part 4.

Rule 241. This part prescribes minimum airport facilities required for the granting of a license or for the approval to operate a public use airport, and for its inclusion on the aeronautical charts and in other aviation publications made available to the public.

History: 1954 ACS 52, p. 7, Eff. Nov. 15, 1967.

R 259.242 Existing licensed facilities.

Rule 242. An existing facility licensed as of the effective date of these rules may be relicensed as a class C commercial airport as long as the license is not allowed to lapse for a period of more than 30 days, if the requirements of R 259.245(c) and (d) are met before November 1, 1969. A facility seeking relicensing after lapse shall meet the requirements of these rules.

History: 1954 ACS 52, p. 7, Eff. Nov. 15, 1967.

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R 259.243 Approaches.

Rule 243. (1) No runway shall be established or maintained at any licensed or approved airport which does not meet the minimum approach requirements of R 259.244(a).

(2) The commission shall review proposed construction or alteration of objects which may be hazardous to the flight of aircraft on or in the vicinity of a licensed or approved airport to the extent of the minimum approach requirements of this part. If these minimum requirements are exceeded, then review will be based on the dimensions indicated in part 8. This review will consider existing controlling objects which shield those objects being proposed.

History: 1954 ACS 52, p. 7, Eff. Nov. 15, 1967.

R 259.244 Class D substandard noncommercial airports.

Rule 244. A class D substandard noncommercial airport is a substandard landing area available for public use. No license shall be granted, but approval will be granted annually and publication of the airport will be made if the following minimum requirements are provided and maintained:

(a) At least 1 runway with a 1,200-foot landing length in each direction from a clear approach of 20:1 and a 50-foot usable width, with an additional 25-foot minimum on each side free of obstructions. The approach slope shall be based on clearance of all objects within the approach area, including a roadway clearance of 15 feet (17 feet over an interstate highway), a railway clearance of 25 feet, and clearance at the boundary of the airport property interest of 25 feet. Runway lights are not considered an obstruction in the runway width required to be free of obstruction.

(b) A permanent monument established on the centerline at or beyond each end of the landing strip, according to commission drawing no. ST-R-101.

(c) Runway well defined either by mowing, use of markers or low peripheral farming with displaced thresholds marked according to commission drawing no. ST-R-103.

(d) Runway in a permanent location and not moved from 1 area to another.

(e) Wind cone.

(f) Telephone available at or near the airport. Directions shall be posted indicating the location of the nearest telephone.

(g) Commercial operations, such as, but not limited to, the sale of gasoline and oil, soliciting of charter flights or student instruction, are not permitted on this class of airport.

(h) A person using a class D airport does so at his own risk.

History: 1954 ACS 52, p. 7, Eff. Nov. 15, 1967.

R 259.245 Class C commercial airports.

Rule 245. A class C commercial airport license will be granted if the following are provided and maintained:

(a) Licensed airport manager and assistant manager.

(b) A runway with 1,800-foot landing length in each direction from a clear approach slope of 20:1 and a 100-foot usable width with an additional 50-foot minimum on each side free of obstructions.

(c) An approach slope at a ratio of 20:1 with a width of not less than 200 feet. The approach slope shall be based on a clearance of all objects within the approach area including a roadway clearance of 15 feet (17 feet over an interstate highway), a railway clearance of 25 feet and a clearance at the boundary of airport property interests of 25 feet.

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(d) Marking as follows:

(i) Segmented circle with wind indicator according to commission drawing no. ST-R-102, except where traffic control is exercised.

(ii) Displaced thresholds marked according to commission drawing no. ST-R-103 or 104.

(iii) A permanent monument established on the centerline at or beyond each end of the landing strip. (Commission drawing no. ST-R-101.)

(iv) Markers outlining the landing area on sod strips. (Commission drawing no. ST-R-103.)

(v) Centerline marking and runway numbering on hard-surfaced runways. (Commission drawing no. ST-R-104.)

(e) Runway lights in operation from sunset to sunrise unless attended or automatically controlled. Failure to meet this condition will require being publicized as an unlighted airport.

(f) A telephone available on the airport and its location clearly indicated.

(g) Sanitary facilities.

(h) Shelter for public use.

(i) Aircraft parking and tie-down area.

History: 1954 ACS 52, p. 8, Eff. Nov. 15, 1967.

R 259.246 Class B commercial airports.

Rule 246. A class B commercial airport license will be granted if airport facilities required for a class C license are provided, and the following additional services and facilities are provided and maintained:

(a) Suitable buildings for housing the facilities and services required.

(b) Intermittent attendance.

(c) Aircraft fuels and oils.

(d) Airman information and data.

(e) Automotive parking area and adequate safety barrier.

(f) Safety fence for spectator areas.

(g) Year-round operation and maintenance.

History: 1954 ACS 52, p. 8, Eff. Nov. 15, 1967.

R 259.247 Class A commercial airports.

Rule 247. A class A commercial airport license will be granted if airport facilities required for class B and C licenses are provided, and the following additional services and facilities are provided and maintained:

(a) Suitable buildings for housing the facilities and services required.

(b) Attended from 8:00 a.m. to sunset daily.

(c) Aircraft fuels and oil available from 8:00 a.m. to sunset daily.

(d) Air frame and power plant repair service on the airport.

(e) Hangar facilities.

(f) Motorized fire equipment in operational condition, such as a pumper or crash truck located on the airport or a written agreement with a unit of government capable of providing such equipment within 5 minutes of notification of need.

History: 1954 ACS 52, p. 9, Eff. Nov. 15, 1967.

PART 5. LANDING AREA LICENSES

R 259.251 Approval of sites.

Rule 251. Upon receipt of an application, the commission shall cause the proposed airport site to be inspected, and shall examine the plans and specifica-

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tions as to all local conditions affecting the construction, and the detailed requirements of construction provided by all state, local and federal laws. If the proposed or completed facility is found to meet the minimum requirements for issuance of site approval or an airport license, the commission will cause the approval or license to be issued.

History: 1954 ACS 52, p. 9, Eff. Nov. 15, 1967.

R 259.252 Priority of applications.

Rule 252. Written applications for inspection and approval of proposed sites will be given priority in order of receipt of the applications. Priorities will be valid for a period of 60 days, and further periods as in the judgment of the commission are justified upon satisfactorily showing that planning or construction is being carried on diligently to a degree of completion.

History: 1954 ACS 52, p. 9, Eff. Nov. 15, 1967.

R 259.253 Location of facilities.

Rule 253. (1) No facility intended for the use of aircraft shall be established, without prior commission approval, within 5 miles of a public use facility licensed by the commission.

(2) No facility shall be licensed or approved which requires aircraft to be airborne under a bridge or power line during the approach to or take-off from a landing area.

(3) The commission reserves the right to refuse issuance of a license or approval when the location of a proposed airport is at or near an existing airport or is in proximity to a game, fishery or other refuge established by the department of conservation.

History: 1954 ACS 52, p. 9, Eff. Nov. 15, 1967.

R 259.254 Airport name change.

Rule 254. The official name of an airport, as designated in a license issued by the commission, shall not be changed unless written request is made by resolution of the governing body of the airport authorizing the name change.

History: 1954 ACS 52, p. 9, Eff. Nov. 15, 1967.

R 259.255 Temporary field permits.

Rule 255. (1) When the owner of an aircraft uses, or proposes to use, an area of land or water for temporary commercial operations, he shall apply to the commission for a temporary field permit on forms furnished by the commission.

(2) The application shall be received at least 7 days before the date of requested issuance, and be accompanied by the fee provided by these rules.

(3) The area shall be inspected by the commission, and if found to be safe for use by the type of aircraft stated in the application, the commission may issue a temporary field permit for a period not to exceed 15 days.

History: 1954 ACS 52, p. 9, Eff. Nov. 15, 1967.

PART 6. SEAPLANE BASES

R 259.261 Facilities and equipment.

Rule 261. A seaplane base shall provide and maintain:

(a) At least 1 unobstructed straight line channel of at least 5,000 feet in length, and 200 feet in width.

(b) A ramp for beaching aircraft.

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(c) A suitable float or mooring facility at some point on the shore adjoining the landing area.

(d) Fire extinguishers.

(e) A telephone at the mooring facility.

History: 1954 ACS 52, p. Eff. Nov. 15, 1967.

R 259.262 Prohibited adjacent areas.

Rule 262. No facility shall be licensed or approved which requires aircraft to be airborne under a bridge or power line during the approach to or take off from a landing area, or requires aircraft to fly in proximity to a bathing beach or boat dock in a manner which may endanger persons or property.

History: 1954 ACS 52, p. 10, Eff. Nov. 15, 1967.

PART 7. HELIPORTS

R 259.271 Class A commercial heliports.

Rule 271. A class A commercial heliport license will be granted, and the heliport may be included on aeronautical charts, if the following are provided and maintained:

(a) A length and width (A and B of commission drawing no. ST-R-106) of the landing area of at least 1½ times the length of the helicopter using the facility.

(b) At least 2 approach zones shall be provided, free of obstruction within the ratios on height limitations illustrated in commission drawing no. ST-R-106. Two of the approach zones provided shall be located to provide that their centerline shall form an arc of not less than 90 degrees at their intersection. Each approach zone shall provide an area suitable for an emergency landing during take-off, climb-out and landing.

(c) When a heliport is located on an elevated structure or roof, local building and fire codes shall be complied with. The minimum square foot strength of the contact surface shall be great enough to withstand at least 75% of the gross weight of the largest helicopter authorized to use the heliport. When applying for a license, the applicant shall file a certificate signed by a professional engineer registered in this state, certifying structural compliance of the heliport.

(d) Wind cone.

(e) At least 2 twenty-pound dry chemical fire extinguishers.

(f) Telephone available on the heliport and location clearly indicated.

(g) Nonclimbable fencing.

(h) Signs, indicating a heliport, located on its perimeter.

History: 1954 ACS 52, p. 10, Eff. Nov. 15, 1967.

R 259.272 Temporary commercial heliports.

Rule 272. A temporary commercial heliport will be approved if the following are provided and maintained:

(a) A landing area with a minimum diameter equal to twice the diameter of the rotor system of any rotary wing aircraft to be operated from the area. The landing area shall be free of all obstructions and roped off.

(b) At least 2 approach zones with a glide slope of 5:1 free of obstructions. Each approach zone shall provide an area suitable for an emergency landing during take-off, climb-out and landing.

History: 1954 ACS 52, p. 10, Eff. Nov. 15, 1967.

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PART 8. AIRPORT APPROACH STANDARDS

R 259.281 Scope of part 8.

Rule 281. This part prescribes the airport approach standards which will be used by the commission in conducting aeronautical studies.

History: 1954 ACS 52, p. 10, Eff. Nov. 15, 1967.

R 259.282 Objects of interference.

Rule 282. A man-made structure, natural growth or other object which projects above the landing area or any of the airport referenced imaginary surfaces hereinafter described and on commission drawing no. ST-R-107, is considered an object of interference to air-navigation unless an aeronautical study reveals otherwise.

History: 1954 ACS 52, p. 10, Eff. Nov. 15, 1967.

R 259.283 Airport referenced imaginary surfaces.

Rule 283. Airport referenced imaginary surfaces are established by reference to the airport as hereinafter described and consist of the approach surfaces, inner horizontal surface, extended inner horizontal surface, conical surface, transitional surfaces, outer horizontal surface, and extended 500-foot parallel surface.

History: 1954 ACS 52, p. 10, Eff. Nov. 15, 1967.

R 259.284 Approach surfaces.

Rule 284. The approach surface is an inclined plane located directly above the approach area. The dimensions of the approach area are measured horizontally as follows:

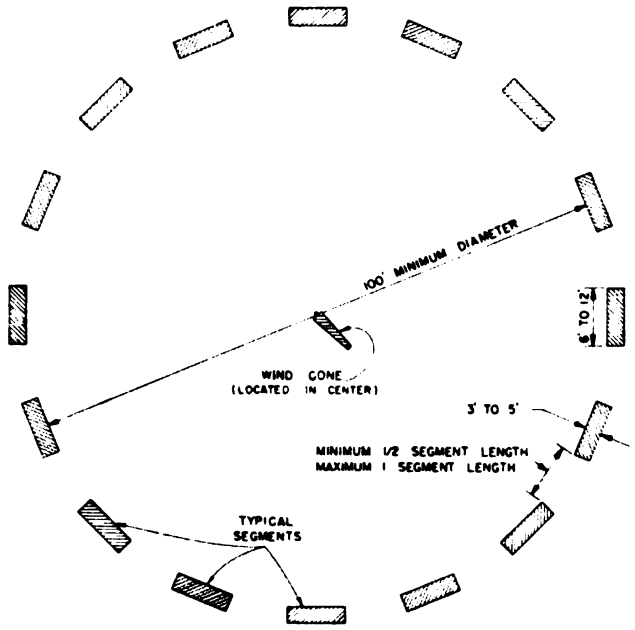
(a) The approach area has a variable length, measured on the extended centerline, beginning 200 feet outward from the threshold of or the displaced threshold of each runway, and extending outward, ending at the intersection of the inner horizontal surface and the approach surface.

(b) The approach area is symmetrically located with respect to the extended runway centerline. For FAA designated or master plan instrument landing system runways, the approach area has a total width of 1,000 feet at the end adjacent to the runway and flares outward at a ratio of 20:3 until the approach surface intersects the inner horizontal surface. For all other runways, the approach area has a total width at the end adjacent to the runway as follows: runways 3,501 or longer, 500 feet; runways less than 3,501 feet long, 250 feet. The approach areas with widths of 250 feet and 500 feet flare outward at a ratio of 10:1 until the approach surface intersects the inner horizontal surface.

(c) For FAA designated or master plan instrument landing runways, the slope of the approach surface along the runway centerline extended is 50:1. For runways 3,200 feet or longer, corrected length, this slope is 34:1 and for runways less than 3,200 feet, corrected length, the slope is 20:1. Corrected length is that which is corrected to elevation, the runway gradient and the normal maximum temperature of the hottest month of the site.

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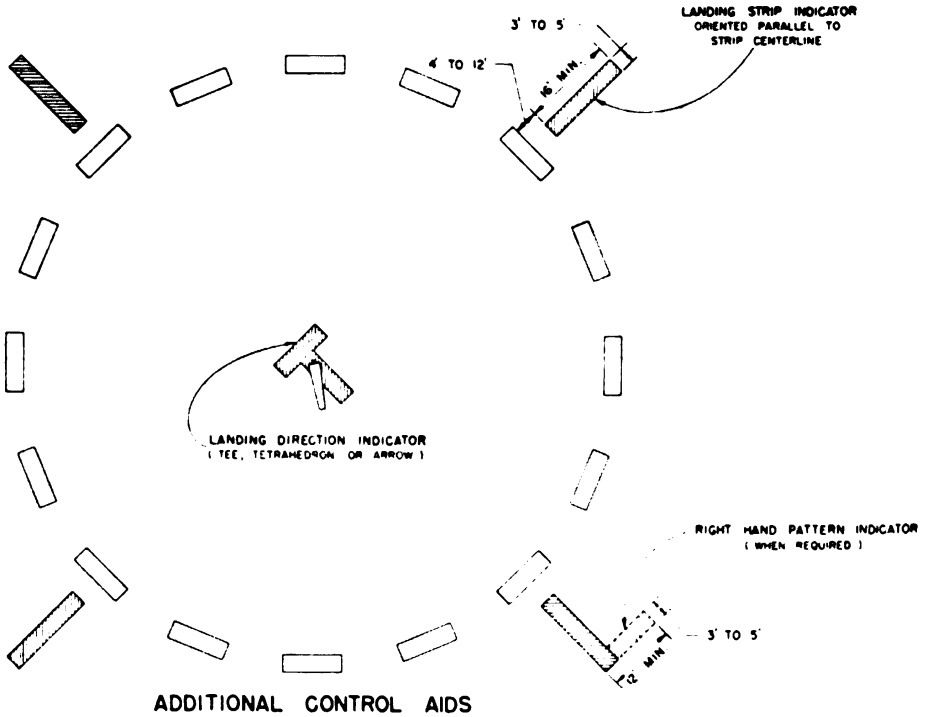
Segmented Circle



MINIMUM REQUIRED INSTALLATION

GENERAL NOTES

1. THE MINIMUM INSTALLATION SHALL CONSIST OF A SEGMENTED CIRCLE AND A CONVENTIONAL WIND CONE LOCATED OFF THE TRAFFIC AREA ADDITIONAL CONTROL AIDS MAY BE ADDED AS SHOWN
2. ALL ITEMS SHALL BE CONSTRUCTED OF DURABLE WEATHERPROOF MATERIAL.
3. COLOR OF SEGMENTS (NATURAL OR APPLIED) SHALL PROVIDE AN EFFECTIVE CONTRAST TO THE SURROUNDING AREA
4. SEGMENTS AND INDICATORS MAY BE OF ANY TYPE CONSTRUCTION THAT WILL SIMULATE THE SHAPES SHOWN THEY SHALL BE OF A TYPE THAT WILL SHED SNOW AND NOT BE OBSCURED BY VEGETATION OR DRIFTING SNOW AND SAND.
5. 55 GAL OIL DRUMS OR SIMILARLY VISABLE UNITS MAY BE USED AS SEGMENTS. CIRCLE DIAMETER MAY BE REDUCED TO 50' USING 20 SEGMENTS.



ADDITIONAL CONTROL AIDS

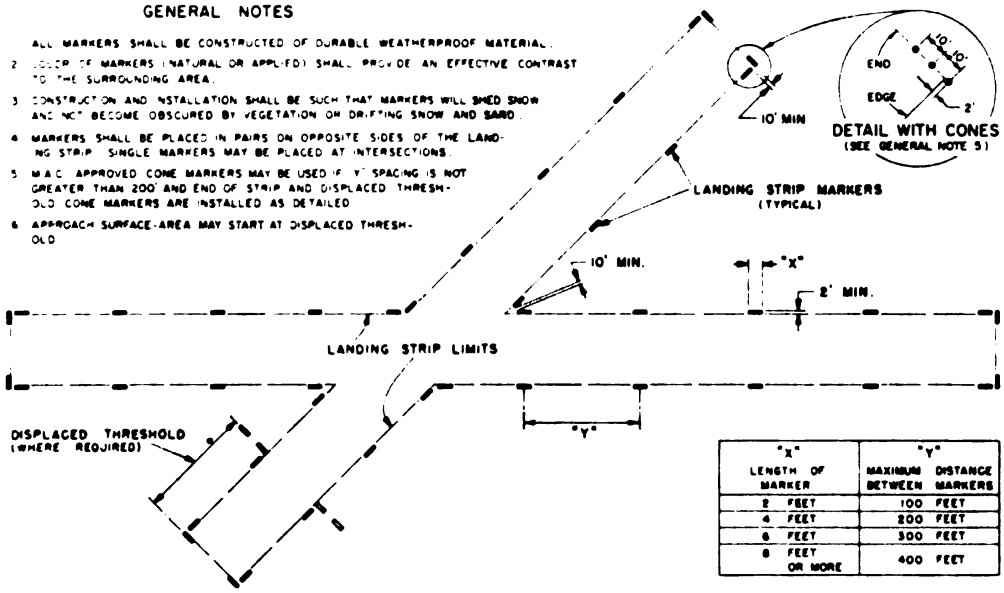
MICHIGAN AERONAUTICS COMMISSION

APPROVED AUG 24, 1967 DRAWING NO ST-R-102
REVISED JULY 19, 1973
REV APPROVED MARCH 20, 1974

History: 1954 ACS 52, p. 22, Eff. Nov. 15, 1967; 1954 ACS 79, p. 14, Eff. May 22, 1974.
Cross-references: For Drawing Nos. ST-R-101 and ST-R-104 to ST-R-108, see pp. 785 to 792.

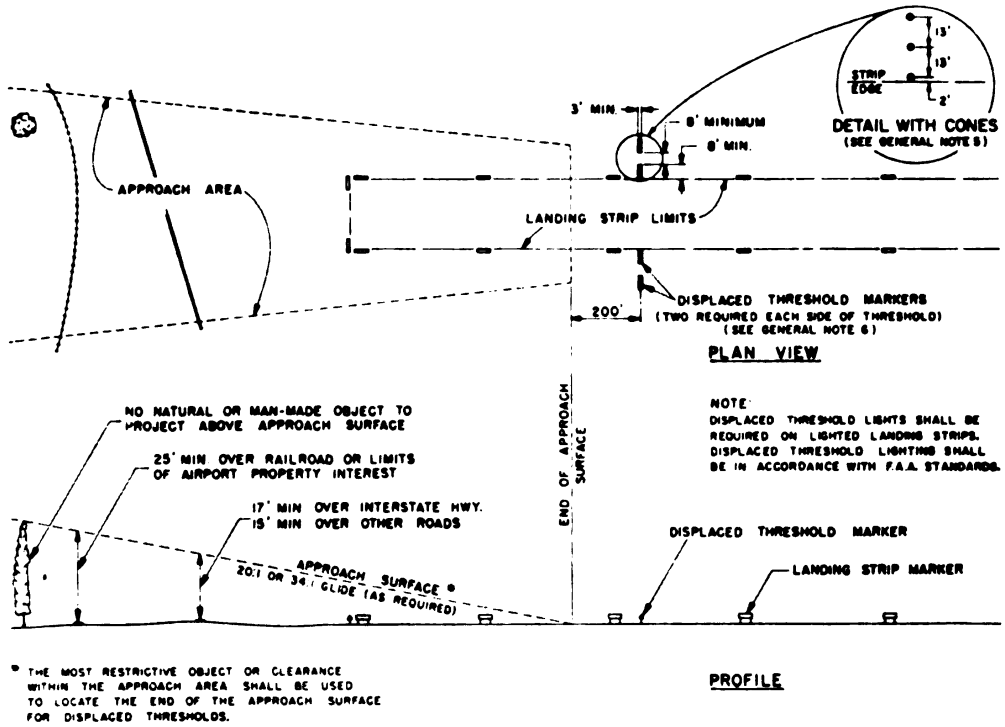
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Landing Strip Marking



"X" LENGTH OF MARKER	"Y" MAXIMUM DISTANCE BETWEEN MARKERS
2 FEET	100 FEET
4 FEET	200 FEET
6 FEET	300 FEET
8 FEET OR MORE	400 FEET

LANDING STRIP MARKER LAYOUT



DISPLACED THRESHOLD MARKER LAYOUT

MICHIGAN AERONAUTICS COMMISSION

APPROVED AUG 24, 1967 DRAWING NO. ST-R-103
REVISED JULY 19, 1973
REV APPROVED MARCH 20, 1974

History: 1954 ACS 52, p. 23, Eff. Nov. 15, 1967; 1954 ACS 79, p. 15, Eff. May 22, 1974.
Cross-references: For Drawing Nos. ST-R-101 and ST-R-104 to ST-R-108, see pp. 785 to 792.

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R 259.285 Inner horizontal surface.

Rule 285. The inner horizontal surface is a plane, circular in shape, with a height of 149 feet above the established elevation of the airport, which is the highest point on the usable runways, and having a radius of 3 miles from the airport reference point, which is the center of the usable runways.

History: 1954 ACS 52, p. 11, Eff. Nov. 15, 1967.

R 259.286 Extended inner horizontal surface.

Rule 286. The extended inner horizontal surface is a plane with its height 149 feet above the established airport elevation and extending outward 10 miles from the airport reference point. This surface is parallel to and symmetrical with the instrument approach course as established by the FAA or master plan, and has the following widths:

(a) At an airport with a radio navigational aid on the airport, the surface is 4 miles wide at the airport reference point and 10 miles wide at the outer limits.

(b) At an airport with a radio navigational aid located off the airport, the surface is 4 miles wide for the entire length.

History: 1954 ACS 52, p. 11, Eff. Nov. 15, 1967.

R 259.287 Conical surface.

Rule 287. The conical surface extends from the periphery of the inner horizontal surface outward and upward to a horizontal distance of 33,390 feet from the airport reference point and to a height of 500 feet above the established elevation of the airport.

History: 1954 ACS 52, p. 11, Eff. Nov. 15, 1967.

R 259.288 Transitional surfaces.

Rule 288. The transitional surfaces are inclined planes with a slope of 7:1 measured outward and upward in a vertical plane at right angles to the centerline or extended centerline of the runway. The transitional surfaces, symmetrically located on either side of the runway, extend outward and upward from a line on either side of the runway, which is parallel to and level with the runway centerline. These parallel lines are at a horizontal distance from the runway centerline equal to ½ of the width of the approach area indicated in R 259.284. Transitional surfaces extend from the edges of all approach surfaces outward and upward to the intersection with the inner horizontal surface.

History: 1954 ACS 52, p. 11, Eff. Nov. 15, 1967.

R 259.289 Outer horizontal 500-foot turning zone surface.

Rule 289. The outer horizontal 500-foot turning zone surface is a plane, circular in shape, with its height 500 feet above the established airport elevation, and extends from the outer periphery of the conical surface a distance of 10 miles from the airport reference point. This surface applies only to an airport with runways 5,001 feet or longer.

History: 1954 ACS 52, p. 12, Eff. Nov. 15, 1967.

R 259.290 Extended 500-foot parallel surface.

Rule 290. The extended 500-foot parallel surface is a horizontal plane with its height 500 feet above the established airport elevation, and extends outwardly from the outer limits of the extended inner horizontal surface to a distance of 20 miles from the airport reference point. This surface is parallel to the instrument

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approach course as established by the FAA or master plan, and is 10 miles wide on the maneuvering side of a procedure turn and 5 miles wide on the opposite side. This surface applies only to an airport with instrument procedures.

History: 1954 ACS 52, p. 12, Eff. Nov. 15, 1967.

PART 9. AIRPORT HAZARDS

R 259.291 Applications.

Rule 291. (1) Application shall be made for a commission permit, unless otherwise authorized in these rules, before a structure, natural growth, or other object shall be erected, rebuilt, altered, allowed to grow or maintained within the areas described in R 259.292 and R 259.293, which will result in an object extending more than 500 feet above the highest point of land within a 1 mile radius from the object.

(2) No application shall be required for the emergency repair, alteration, or replacement of public utility structures, other than buildings when the height of such structures will not be increased. Any circumstance calling for immediate action or remedy in the repair, alteration, or replacement of public utility structures shall be deemed an emergency.

History: 1954 ACS 52, p. 12, Eff. Nov. 15, 1967.

R 259.292 Zoning ordinances.

Rule 292. (1) In areas surrounding a public use airport for which zoning ordinances or resolutions have not been adopted by local units of government, no person shall erect, add to the height of, or replace any object within an area lying 500 feet on either side of the centerline of a runway or landing strip for a distance of 2 miles from the nearest boundary of a public use airport, which will result in an object extending higher than the height determined by the ratio of 20:1 between the nearest boundary of the airport and the object.

(2) In areas for which zoning ordinances or resolutions have been adopted by local units of government, no person shall erect, add to the height of, or replace an object except as authorized by the local zoning ordinance. Outside of locally zoned territory and within an area determined by the extensions of the approach surface and the transitional surface on the same slope ratios established under the local zoning ordinance or resolution, but not to exceed a slope ratio of 40:1 for the approach surface, or 7:1 for the transitional surface, to a point where the extended approach and transitional surfaces intersect the 500-foot level described in R 259.291, no object shall be erected, altered by increasing its height, or replaced until a permit therefor has been obtained from the commission.

History: 1954 ACS 52, p. 12, Eff. Nov. 15, 1967.

R 259.293 Nonconforming structures and trees.

Rule 293. These rules do not require removal, lowering, change, or alteration of a structure, vegetation, or other object not conforming to these rules as of their effective date. However, the owner of a nonconforming object shall without expense provide or permit installation, operation, and maintenance of markers and lights deemed necessary by the commission to indicate the presence of airport hazards. Where an airport hazard area exists in connection with a public use airport, the commission shall define and determine the airport hazard area and certify such determination to the political subdivision where the airport is located, and to the airport owner or operator.

History: 1954 ACS 52, p. 12, Eff. Nov. 15, 1967.

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R 259.294 Abatement of hazards.

Rule 294. An encroachment upon an airport protection area arising out of the erection, rebuilding, alteration, growth, or maintenance of a structure, vegetation, or other object constitutes a public nuisance and may be abated.

History: 1954 ACS 52, p. 12, Eff. Nov. 15, 1967.

R 259.295 Conflicting rules.

Rule 295. If these rules conflict with other regulations applicable to the same area, whether the conflict is with respect to the height of structures, vegetation, or other objects, or any other matter, those limitations or requirements determined by the commission to be most conducive to airport and air travel safety shall prevail and govern.

History: 1954 ACS 52, p. 13, Eff. Nov. 15, 1967.

PART 10. AIRPORT FIELD RULES

R 259.301 General provisions.

Rule 301. (1) Unless specifically exempted by these rules, no person shall navigate an aircraft over, land upon, or fly the same from, or service, maintain, or repair an aircraft on an airport or landing area, or conduct an aircraft operation from an airport or landing area in this state otherwise than in conformity with the requirements of the Michigan aeronautics code and the rules and regulations of the commission.

(2) Unless specifically exempted by these rules, no person shall use an airport or landing area as a base or terminal for the carrying on of commercial aviation, the transportation of passengers, freight, express or mail, student flying, or private purposes of transportation without first securing a permit from the manager or assistant manager and paying the fees and charges prescribed.

(3) An airport manager or assistant manager at all times has authority to take such action authorized by law as may be necessary in the handling, conduct, and management of the public in attendance at the airport.

(4) A person dealing, at wholesale or retail, in aviation fuel shall acquire and dispense such fuels in accordance with the laws of this state, the rules and regulations of the commission, and the rules and regulations of the state fire marshal. Fuels of different octane shall not be dispensed from the same pump.

History: 1954 ACS 52, p. 13, Eff. Nov. 15, 1967.

R 259.302 Use of airports by aircraft and airmen.

Rule 302. (1) Aircraft shall conform to the standard traffic pattern as outlined in commission drawing no. ST-R-108 except as follows:

(a) When meteorological conditions are such that compliance with visual flight rules as prescribed by federal air regulations is impossible at the prescribed traffic pattern altitudes, such altitudes may be reduced as necessary down to but no lower than altitudes in accordance with the appropriate federal air regulations and the rules and regulations of the commission.

(b) Aircraft engaged in providing scheduled service may make straight-in approaches when ramp monitoring is conducted.

(c) When local conditions require, and the traffic pattern has been altered to fit these conditions and approved by the commission.

(2) No aircraft shall be flown acrobatically over an airport except upon written authority of the airport manager and then only when the airport is closed to traffic.

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(3) Aircraft approaching an airport for a landing shall make at least a ½ circuit of the field, conforming with the standard traffic pattern, except when otherwise denoted on a segmented circle, or except when otherwise directed by air traffic control.

(4) Visiting pilots landing on an airport, where practical, shall sign the airport register.

(5) Airmen, before departing from an airport, shall make satisfactory arrangements for the payment of storage, repair and supply charges.

(6) Persons giving flight instruction shall acquaint students with the rules and regulations of the commission in effect at the airport, and are responsible for their conduct.

History: 1954 ACS 52, p. 13, Eff. Nov. 15, 1967.

R 259.303 Standard traffic pattern at uncontrolled airports.

Rule 303. (1) Traffic at an uncontrolled airport shall conform with the traffic pattern illustrated in commission drawing no. ST-R-108, with the exceptions listed in R 259.302.

(2) Light, slow aircraft shall enter the pattern at 800 feet above the airport elevation and use the inner rectangular pattern to secure wind direction. Heavy, fast aircraft shall enter the pattern at 1,000 feet above airport elevation, and use outer circular pattern.

(3) Aircraft shall use the runway nearest to direction as indicated by the wind sock or runway indicator for takeoffs and landings.

(4) Under calm wind conditions, aircraft shall use the preferential runway indicated in the local traffic pattern sketch posted in the airport office.

(5) Departing light, slow aircraft shall proceed straight ahead until reaching an altitude of 400 feet and passing the end of the runway, then making a 90 degree left turn and climb to 600 feet, then make a 45 degree turn to the right and depart the traffic area. Heavy, fast aircraft may depart straight ahead. Altitudes quoted are above the airport elevation.

History: 1954 ACS 52, p. 13, Eff. Nov. 15, 1967.

R 259.304 Supervision of running engines.

Rule 304. (1) An aircraft engine shall not be started unless a competent operator is in the aircraft attending the engine controls.

(2) Blocks equipped with ropes or other suitable means of removing the blocks shall always be placed in front of the wheels before starting the engine, unless the aircraft is equipped with adequate parking brakes and the brakes are effectively set.

(3) An aircraft shall be started and warmed up only in areas designated for such purposes.

History: 1954 ACS 52, p. 14, Eff. Nov. 15, 1967.

R 259.305 Fueling of aircraft.

Rule 305. No aircraft shall be fueled in a hangar, or while the engine is running.

History: 1954 ACS 52, p. 14, Eff. Nov. 15, 1967.

R 259.306 Accidents and wrecked aircraft.

Rule 306. (1) An aircraft owner, his pilot, or authorized agent is responsible for the prompt disposal of a wrecked aircraft and its parts to avoid interference with airport operations, unless specifically directed by the airport manager,

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commission, state police, or appropriate federal agency to delay removal pending investigation.

(2) Participants in an accident at or near an airport shall report to the airport manager or responsible authorities as soon after an accident as possible, furnishing their names, addresses, and rendering reports required.

(3) Reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose growing out of a matter referred to in an investigation, hearing or report, except in case of criminal or other proceedings in behalf of the commission.

(4) An officer or employee of the commission shall not be required to testify as an expert witness in an action involving an aircraft.

History: 1954 ACS 52, p. 14, Eff. Nov. 15, 1967.

R 259.307 Towing.

Rule 307. A pilot shall not tow anything by an aircraft unless authority for the operation has been issued in writing by the airport manager, and appropriate commission and federal waivers have been issued.

History: 1954 ACS 52, p. 14, Eff. Nov. 15, 1967.

R 259.308 Dropping of objects.

Rule 308. The pilot of an aircraft shall not permit an object to be dropped from an aircraft in flight except upon written permission of the political subdivision having jurisdiction over the proposed act, and after full compliance is made with all applicable federal, state, and local laws and regulations. This rule does not prohibit aerial application operations such as seeding, spraying or dusting, where authorized by law, or acts performed in emergencies when it is necessary to lighten an aircraft in the interests of safety of the aircraft and its occupants.

History: 1954 ACS 52, p. 14, Eff. Nov. 15, 1967.

PART 11. AIRPORT MANAGERS AND ASSISTANT AIRPORT MANAGERS

R 259.311 Appointment and licensing.

Rule 311. (1) The owner or operator of a licensed airport in this state shall appoint a manager, and, if the manager is unable to be continuously in attendance, shall appoint an assistant manager.

(2) The manager shall be furnished, by appropriate resolution of the political subdivision appointing him, adequate power and authority to exercise control over the airport for the enforcement of federal, state and local rules and regulations pertaining to the airport and its use. The assistant manager shall be empowered to act for the manager in his absence.

(3) The issuance of a license to an airport manager or assistant airport manager shall require a 70% passing grade on a test based on the Michigan aeronautics code and the rules and regulations of the commission. Tests will be furnished by the commission.

History: 1954 ACS 52, p. 14, Eff. Nov. 15, 1967.

R 259.312 Responsibilities and duties.

Rule 312. An airport manager and assistant manager shall:

(a) Enforce the rules and regulations of the commission.

(b) Determine that all airport requirements for the class under which the airport is licensed are maintained.

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(c) Determine and take appropriate action to assure that all pilots, mechanics, instructors, aircraft, and schools operating on the airport under his authority have appropriate and effective valid airworthiness or competency certificates and registrations as issued by the appropriate state and federal agencies.

(d) Establish, maintain and preserve an airport register book showing arrivals and departures of aircraft, the number of airmen and passengers, and other relevant information required by the commission. The records of the airport register shall be retained for 1 year, or such other period required by the commission, and are available for inspection upon demand by the commission or its authorized representative.

(e) Maintain a record of the number of gallons of aviation fuel purchased, used or sold at the airport during the preceding calendar year, setting forth information required by the commission. The report shall be filed with the commission on request.

(f) Post current local airport rules.

(g) File NOTAMS with the proper federal agency designating any change in airport condition.

(h) Note and advise the commission of a proposed construction or zoning change adjacent to or near the airport which would affect air navigation safety or airport use.

(i) Advise sponsors of new and proposed construction of federal regulations pertaining to objects affecting navigable airspace, and have available for distribution commission form no. 117, notice of proposed construction or alteration.

History: 1954 ACS 52, p. 15, Eff. Nov. 15, 1967.

PART 12. AVIATION SCHOOLS AND INSTRUCTORS

R 259.321 Applications.

Rule 321. (1) Upon receipt of an application by an aviation school, together with the license fee, the commission will cause the school to be inspected, and the qualifications of the applicant determined.

(2) An aviation school shall be classed as a ground school or a flight school.

History: 1954 ACS 52, p. 15, Eff. Nov. 15, 1967.

R 259.322 Duration and renewal of licenses.

Rule 322. (1) Unless sooner surrendered, suspended, or revoked, a school license expires 1 year from date of issuance, or upon the sale or transfer by the owner of its property, equipment, or franchise.

(2) A change in the name of the school, without change in ownership, does not cause a current license to expire, if the owner of the school, within 15 days, notifies the commission in writing of the change. The commission will then issue a license under the new name, with the same expiration date as the license previously issued, with no additional fee required.

History: 1954 ACS 52, p. 15, Eff. Nov. 15, 1967.

R 259.323 Ground schools.

Rule 323. (1) A ground school shall provide a suitable space of permanent nature, properly heated, lighted, and ventilated, to house adequate equipment necessary to the proper conduct of business matters, and the preparation and preservation of business records. The office facilities of the school shall be equipped with necessary chairs, desks, or tables, filing cabinets, typewriters, and telephone.

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(2) The school shall provide classroom space of a permanent nature. Equipment and supplies shall be housed in a suitable, well-lighted, and well-ventilated room with clean and sanitary surroundings. Ample separate space shall be provided for classrooms and equipment sufficient to accommodate the largest number of students scheduled for attendance at any time. Each student shall be provided with a desk chair, or chair and desk or table suitable for writing examinations. Sanitary facilities, including adequate toilet and washroom facilities, shall be provided in the building or in the immediate vicinity. Classrooms shall be maintained in a neat and sanitary condition, equipped with a blackboard of sufficient size to provide explanation by means of diagrams, and lighted with illumination of sufficient intensity to promote study without eye strain.

(3) The school shall make available sufficient texts and related reading and visual material covering state and federal aviation laws, regulations, engines, aircraft, meteorology, navigation and radio, and other subjects which may be required by state or federal authority.

(4) The school shall provide adequate instruction to properly qualify a student completing its courses for the appropriate federal agency examinations covering the grade of certificate or rating the student is seeking.

(5) A person employed as a ground instructor shall be certified in accordance with federal regulations, and registered with the commission, or shall be under the direct supervision of a certificated ground instructor. A certified flight instructor may conduct ground school training if approved audio visual aids are used. An instructor in a public school, college, or university is exempt from the requirements of this subrule.

History: 1954 ACS 52, p. 15, Eff. Nov. 15, 1967.

R 259.324 Flight schools.

Rule 324. (1) A flight school shall provide the same office facilities as prescribed for a ground school.

(2) The school shall provide the same classroom facilities as prescribed for a ground school; however, if classrooms are located other than at an airport, a student ready-room shall be provided at the airport site. A suitable space, with clean and sanitary surroundings, properly heated, lighted, and ventilated to accommodate flight students and equipped with necessary chairs, clothes racks, lockers, bulletin boards, appropriate aeronautical charts, and sanitary facilities as prescribed for a ground school shall be provided.

(3) The school shall provide a suitable space, properly heated, lighted, and ventilated to conduct necessary inspections, repairs, and maintenance operations required to maintain aircraft.

(4) The school shall provide sufficient tools, mechanical devices and aircraft engine and airframe manufacturers' manuals to perform adequately all maintenance operations.

(5) A building or structure shall not be used or occupied for any purpose or meeting until inspected and approved by the state or local fire marshal.

(6) If the equipment and facilities required in this rule are not provided, a contractual agreement with a maintenance and repair shop, upon approval of the commission, will be deemed adequate to fulfill compliance with the maintenance and repair requirements of this rule.

(7) The school's application shall show that:

(a) Each aircraft to be used for purposes of flight instruction is possessed of a valid airworthiness certificate issued by the appropriate federal agency, is

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properly registered with the commission, and has the equipment and performance characteristics appropriate to the curriculum, and the airport to be used.

(b) Each certificated aircraft is registered in the name of the owner, or operated under lease, the terms of which are satisfactory to the commission, and sufficient aircraft are available at the training location for the flight training periods prescribed.

(8) The school shall have at least 1 flight instructor available for each scheduled instruction period or supervised solo period. A person employed as a flight instructor shall possess valid and appropriate commercial pilot's and instructor's certificates issued by the appropriate federal agency and registered with the commission.

(9) The school shall have a written curriculum including lesson plans so organized as to properly qualify a student completing the particular course for the certificate or rating he is seeking.

History: 1954 ACS 52, p. 16, Eff. Nov. 15, 1967.

R 259.325 Conduct of schools.

Rule 325. (1) The school license in its currently effective form shall be conspicuously posted in the principal office of the school where it may be readily observed.

(2) An applicant for, or holder of, a school license shall permit and offer full cooperation in respect to an inspection which may be made of the applicant or licensee by an authorized representative of the commission. Records and rosters pertaining to operation of the school shall be available for inspection by any authorized representative of the commission, upon demand. The commission shall at all times have access to the lands, buildings and equipment of a licensed school and to the records required to be kept by the school.

(3) A copy of the school regulations shall be posted conspicuously on the school bulletin board for information and guidance of students enrolled therein.

(4) A school and its representatives and instructors shall not in its advertising guarantee, or imply the guarantee of, employment prior to, during, or upon completion of a course of study. Only a licensed school may advertise flight and ground school instruction.

History: 1954 ACS 52, p. 16, Eff. Nov. 15, 1967.

PART 13. FLYING CLUBS

R 259.331 Applications for registration of aircraft.

Rule 331. An application for registering aircraft owned by a flying club shall be made upon forms provided by the commission, shall be executed by an authorized officer or incorporator of the club, and shall state:

(a) The location and post office address of the club's registered office, and the principal place of its operations.

(b) The names and places of residence, or business addresses, of each of the club's officers.

(c) The registered owner of the aircraft as designated on the certificate of registration.

(d) That the aircraft is not being used, or proposed to be used, for profit or reward.

History: 1954 ACS 52, p. 17, Eff. Nov. 15, 1967.

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R 259.332 Application signers' responsibility; designation of agents.

Rule 332. (1) The officer or authorized member of the flying club signing the application for registering club aircraft is responsible for compliance by the club members with all aviation laws and the rules and regulations of the commission.

(2) A flying club shall designate in writing an agent upon whom service of notices, reports, and other requirements of the commission may be made, as if made personally upon the club.

History: 1954 ACS 52, p. 17, Eff. Nov. 15, 1967.

R 259.333 Operation of aircraft.

Rule 333. (1) An aircraft operated, owned or leased by a flying club shall comply with the airworthiness requirements of the appropriate federal agency.

(2) The club shall not derive greater revenue from the use of its aircraft than the amount necessary for its actual operation, maintenance and replacement.

(3) The club's aircraft shall not be used by other than bona fide members for rental, or by anyone for charter or taxi lease.

History: 1954 ACS 52, p. 17, Eff. Nov. 15, 1967.

PART 14. AIR TRAFFIC RULES

R 259.341 General.

Rule 341. (1) The owner, operator, or pilot of an aircraft, or a person to whom he has given permission to use the aircraft, is directly responsible for its safe operation.

(2) When an aircraft is involved in an accident in this state which causes injury or death, or damage in excess of $100.00 to the aircraft, the owner or person in control of the aircraft shall immediately report the accident to the nearest state police post.

(3) A person shall not operate an aircraft in a careless or reckless manner so as to endanger, or be likely to endanger, the life or property of another. Other than at a licensed or approved airport, no person shall fly an aircraft less than 25 feet above the ground at the field boundary, or closer than 25 feet to any object or structure while landing or taking off.

(4) A person shall not operate an aircraft, or serve as a member of its crew, while under the influence of an intoxicating beverage, or while using any drug which affects his faculties in any manner contrary to safety. The owner, operator, or pilot of an aircraft shall not permit any person to be carried in the aircraft who, in his opinion, is addicted to or under the influence of drugs or alcoholic beverages, except a patient under medical care.

(5) Aircraft shall be flown at least 500 feet apart, except by prearrangement of the pilots in command.

(6) A certificate of waiver will be required from the commission for aerial patrol and aerial towing, except for towing of gliders.

History: 1954 ACS 52, p. 17, Eff. Nov. 15, 1967.

R 259.342 Landings and takeoffs.

Rule 342. (1) An aircraft shall not land, except in an emergency, on private property, other than upon recognized landing areas, unless express permission is secured from the owner or lessee.

(2) An aircraft shall not land on, or take off from, a public highway, except in an emergency. An aircraft shall not take off from a public highway unless traffic is controlled by law enforcement officials.

History: 1954 ACS 52, p. 18, Eff. Nov. 15, 1967.

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R 259.343 Minimum altitudes.

Rule 343. Except when necessary for taking off and landing, an aircraft shall not be flown:

(a) Over the limits of a city or village at an altitude below that which will permit a safe landing outside the congested areas, in case of power failure, and in no case less than 1,000 feet above the area, or less than 2,000 feet horizontally from the highest obstruction.

(b) Over any other area at an altitude of less than 500 feet above the area, except over open water or sparsely populated areas, in which case the aircraft shall not be operated less than 500 feet from any person, vessel, vehicle or structure.

(c) A helicopter may be flown at altitudes less than the minimums prescribed, if the operation is conducted without hazard to persons or property.

History: 1954 ACS 52, p. 18, Eff. Nov. 15, 1967.

R 259.344 Aircraft lights.

Rule 344. (1) An aircraft in flight shall display position lights between the hours of official sunset and sunrise.

(2) An aircraft parked, moored, or otherwise stationed within any area of an airport used, or available, for night flight operations shall be clearly illuminated, unless the parking area is otherwise marked with lights clearly defining the boundaries of the area.

(3) An aircraft parked, moored, or otherwise stationed on water shall display a white anchor light, or position light.

History: 1954 ACS 52, p. 18, Eff. Nov. 15, 1967.

PART 15. INTRASTATE COMMERCIAL OPERATIONS

R 259.351 Intrastate air commerce; when prohibited.

Rule 351. (1) No person shall operate, or authorize to be operated, civil aircraft for hire in scheduled intrastate air commerce within this state without prior approval of the commission. Intrastate air commerce means transportation by air originating and terminating within the territorial limits of this state.

(2) This rule does not apply to an air carrier engaged principally in scheduled commercial flying constituting an act of interstate commerce, and whose scheduled intrastate mileage is not in excess of 50% of its total route mileage, both within and without this state.

History: 1954 ACS 52, p. 18, Eff. Nov. 15, 1967.

R 259.352 Applications for letters of approval.

Rule 352. (1) An applicant applying for a letter of approval shall do so on a form furnished by the commission, accompanied by a $25.00 fee payable to the State of Michigan, Michigan Aeronautics Commission. The application shall be executed by the applicant, be acknowledged before a person authorized to administer oaths, and contain:

(a) The name, bona fide residence, and mailing address of the owner, and business address of the firm, partnership, corporation, company, or association.

(b) The aircraft to be used listed by federal license number.

(c) Pilots listed by name and address.

(d) A summary of applicant's proposed operations including:

(i) Computation of scheduled intrastate mileage.

(ii) Proposed routes, showing terminal points and intermediate stops.

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(iii) Proposed rates, fares, and charges for air transportation to be served by the applicant.

(iv) Proposed days and hours of scheduled operations.

(e) Proof of public liability and property damage insurance issued by an insurance carrier licensed to do business in this state and providing coverages not less than:

(i) $50,000.00 passenger bodily injury liability per seat.

(ii) $50,000.00 bodily injury liability per person, excluding passengers.

(iii) $50,000.00 public liability each occurrence.

(iv) $500,000.00 property damage.

(f) A true copy of applicant's federal aviation agency air taxi certificate.

(g) A copy of applicant's airport use agreement, evidencing that the agreement is in full force and effect as executed by appropriate local authorities, for each intermediate and terminal stop on the proposed intrastate route.

(2) An applicant proposing to offer advance ticket sales shall furnish surety bonds in an amount determined by the commission for the purpose of guaranteeing refunds to passengers for unused tickets.

(3) All aircraft and airmen shall be registered with the commission.

History: 1954 ACS 52, p. 18, Eff. Nov. 15, 1967.

R 259.353 Letters of approval and change of route.

Rule 353. (1) Upon receipt of an application, and the commission's determination that all of the requirements of R 259.352 have been met, the commission shall issue a letter of approval to engage in scheduled commercial operations in intrastate commerce.

(2) Any addition to a route, as approved in the application, requires prior written approval of the commission.

(3) Except as provided in subrule (2), the holder of a letter of approval from the commission shall notify the commission in writing within 30 days of any changes in the information provided in the approved application.

(4) The commission may revoke the letter of approval of an applicant who fails to comply, in whole or in part, with the terms and conditions of this part.

History: 1954 ACS 52, p. 19, Eff. Nov. 15, 1967.

PART 16. FINANCIAL RESPONSIBILITY

R 259.361 Reporting of accidents.

Rule 361. (1) The operator of an aircraft involved in an accident within this state in which any person is killed or injured or damage in excess of $100.00 is sustained other than to property owned by the owner or operator, upon written request of the commission, shall report the matter in writing on forms supplied by the commission.

(2) If the operator is physically incapable, the owner of the aircraft involved in the accident shall make the report.

(3) If the owner or operator dies as a result of the accident, the legal representative of the owner or operator shall make the report.

(4) The law enforcement agency within whose jurisdiction the accident occurred shall immediately notify the commission thereof in writing, but not later than 48 hours after learning of the accident.

History: 1954 ACS 52, p. 19, Eff. Nov. 15, 1967.

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R 259.362 Security and claims.

Rule 362. (1) When the commission determines the amount of security necessary, the owner or operator shall furnish the requested security within 10 days after the request.

(2) Failure to deposit security within 10 days after the request may cause the commission to suspend the aircraft registration and operating privileges of the owner or operator.

(3) The commission shall not consider the claim of any person until it is executed on the proper form available from the commission.

History: 1954 ACS 52, p. 19, Eff. Nov. 15, 1967.

R 259.363 Penalties.

Rule 363. Specific violation of the uniform aircraft responsibility act, Act No. 257 of the Public Acts of 1955, as amended, being §§259.671 to 259.692 of the Michigan Compiled Laws, shall subject the owner or operator to the penalties set forth in section 14 of that act.

History: 1954 ACS 52, p. 19, Eff. Nov. 15, 1967.

PART 18. HEARINGS BY THE COMMISSION

R 259.381 Location and notice.

Rule 381. Hearings by the commission shall be conducted in accordance with Act No. 197 of the Public Acts of 1952, as amended, being §§24.101 to 24.110 of the Michigan Compiled Laws. Unless otherwise indicated, a hearing shall be held in the offices of the commission, Capital City Airport, Lansing, Michigan. A hearing notice shall be given by registered mail, and shall state the date, time, place, issues involved, and reason for conducting the hearing. The notice shall be mailed at least 20 days prior to the date set for hearing.

History: 1954 ACS 52, p. 20, Eff. Nov. 15, 1967.

R 259.382 Adjournments and continuances.

Rule 382. A hearing shall not be adjourned or continued except upon order of the commission, or its duly authorized hearings representative. A request for adjournment or continuance shall be in writing, stating concisely the reasons why it is required, and be filed at least 10 days prior to the date set for hearing, or sufficient showing made that reasons beyond the control of the party making such request prevented such filing.

History: 1954 ACS 52, p. 20, Eff. Nov. 15, 1967.

R 259.383 Appearances and defaults.

Rule 383. A party may appear in person or by a duly authorized representative or attorney. If a party fails to appear after proper service of notice, and if no adjournment is granted, the commission may proceed with the hearing and make its decisions in the absence of the party.

History: 1954 ACS 52, p. 20, Eff. Nov. 15, 1967.

R 259.384 Pleadings, briefs, and stipulations.

Rule 384. (1) A party requesting a hearing shall submit to the commission in writing a fair and accurate statement of the reasons therefor, the facts and issues involved, and may file a brief upon the law. Allegations of fact recited in the statement may be accepted by the commission as evidence, unless a written

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answer is filed denying such facts or unless a party asserts affirmative defenses in his answer.

(2) A proper party may file a written answer to charges or claims made, or may present an oral statement at the time of hearing. Copies of statements, written pleadings and briefs of any party shall be served on the commission, and upon all other proper parties at least 10 days prior to the date set for hearing.

(3) The parties to any proceeding before the commission, by written stipulation filed with the commission, may agree upon any issues of fact involved in the controversy, and the stipulation may be accepted and used as evidence at the hearing.

History: 1954 ACS 52, p. 20, Eff. Nov. 15, 1967.

PART 19. GENERAL PROVISIONS AND RESCISSION

R 259.391 Waiver of rules.

Rule 391. The commission may, at its discretion, waive compliance with these rules and regulations in connection with any particular application when, after a hearing, waiver is found to be required by circumstances or conditions and is determined to be in the public interest.

History: 1954 ACS 52, p. 20, Eff. Nov. 15, 1967.

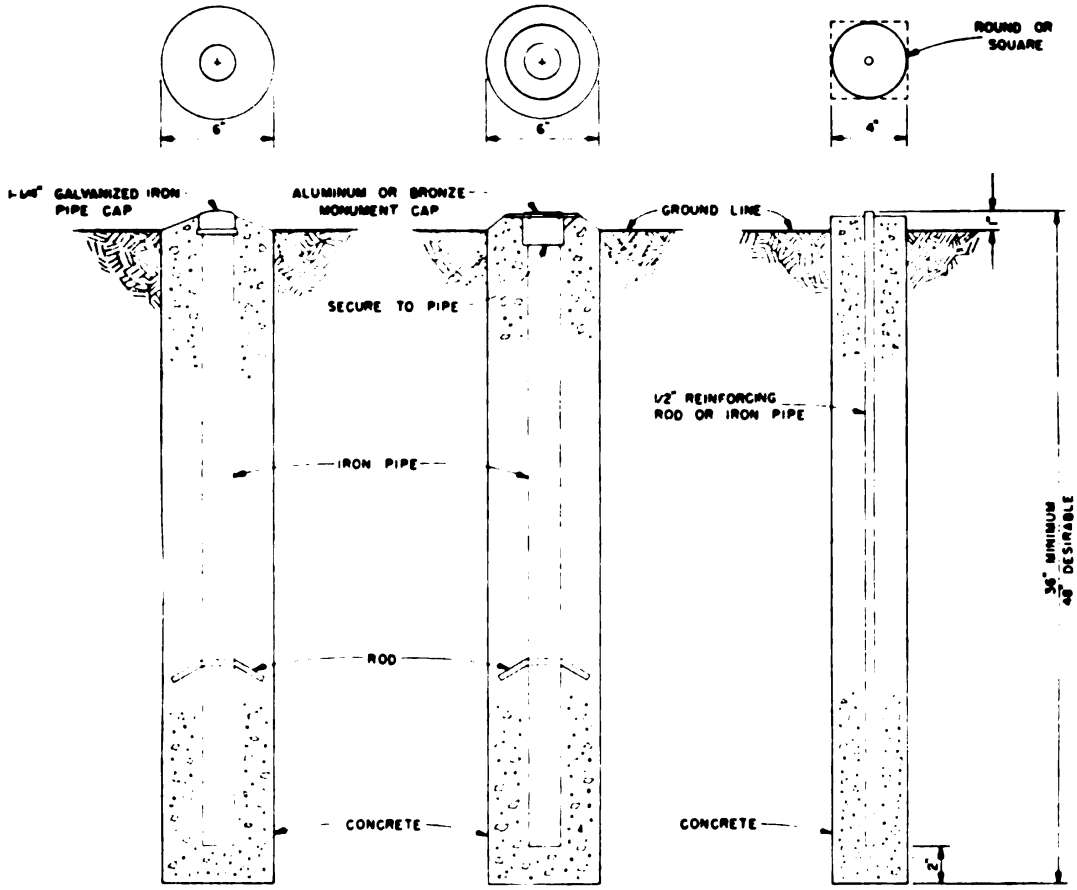
R 259.399 Rescission of prior rules.

Rule 399. Rules 1.0 to 10.0 of the General Rules of the commission as amended, being R 259.101 to R 259.200 of the Michigan Administrative Code, and appearing on pages 349 to 365 of the 1957 Supplement to the Code, and pages 2790 and 2791 of the 1963 Annual Supplement to the Code, and pages 11 and 12 of Supplement No. 50 to the Code, are rescinded.

History: 1954 ACS 52, p. 20, Eff. Nov. 15, 1967.

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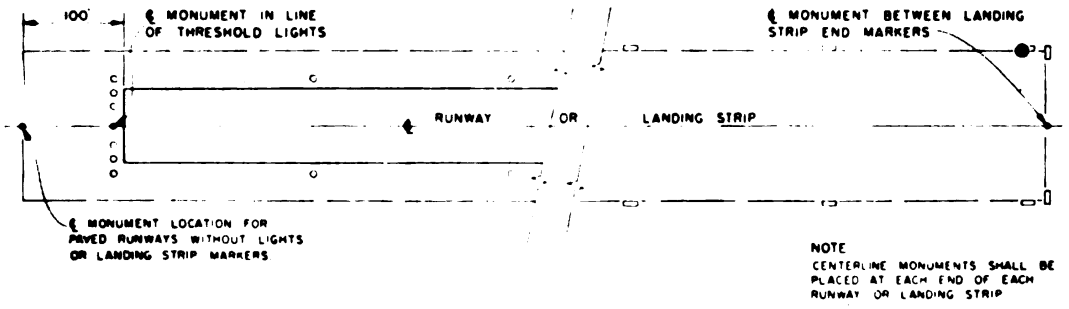
Centerline Monument



DESIRABLE TYPES OF MONUMENTS

MINIMUM ACCEPTABLE MONUMENT

CONSTRUCTION DETAILS



MONUMENT LOCATION

MICHIGAN AERONAUTICS COMMISSION

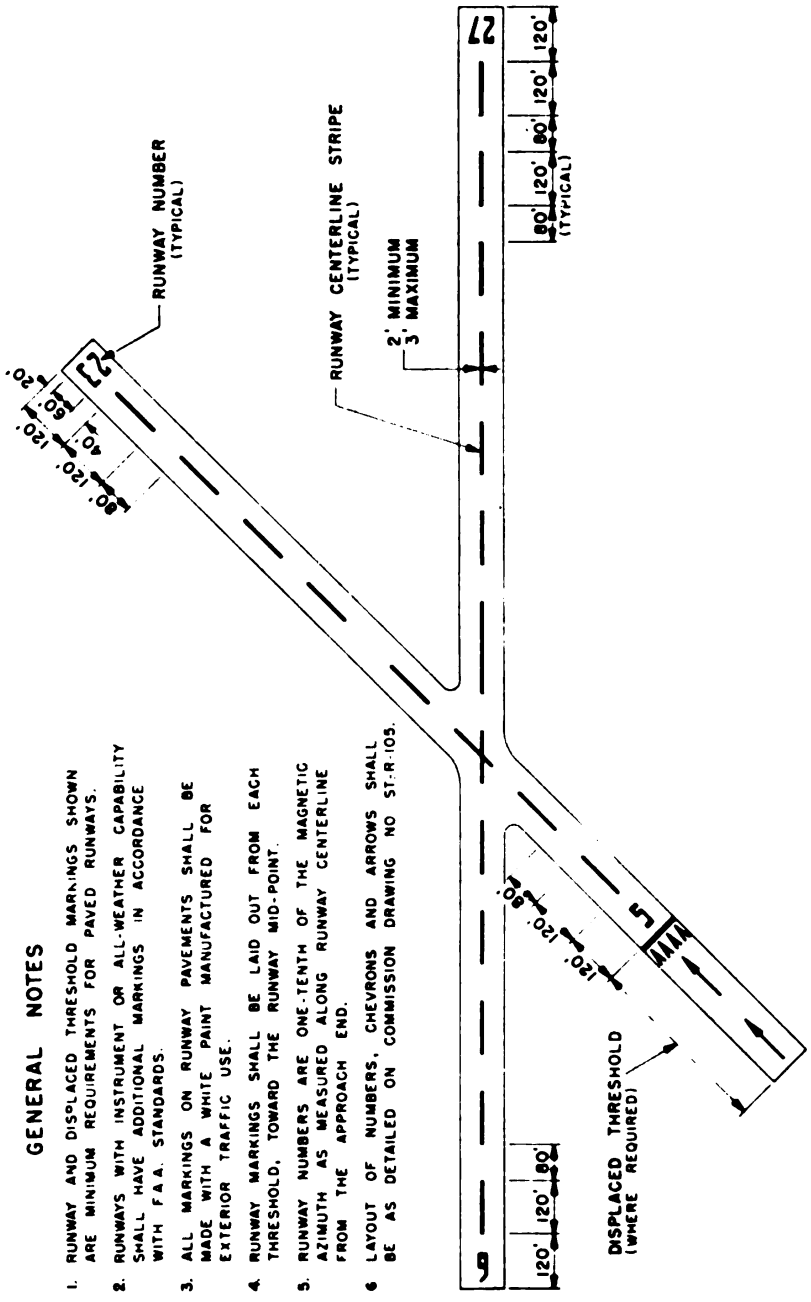
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History: 1954 ACS 52, p. 21, Eff. Nov. 15, 1967.

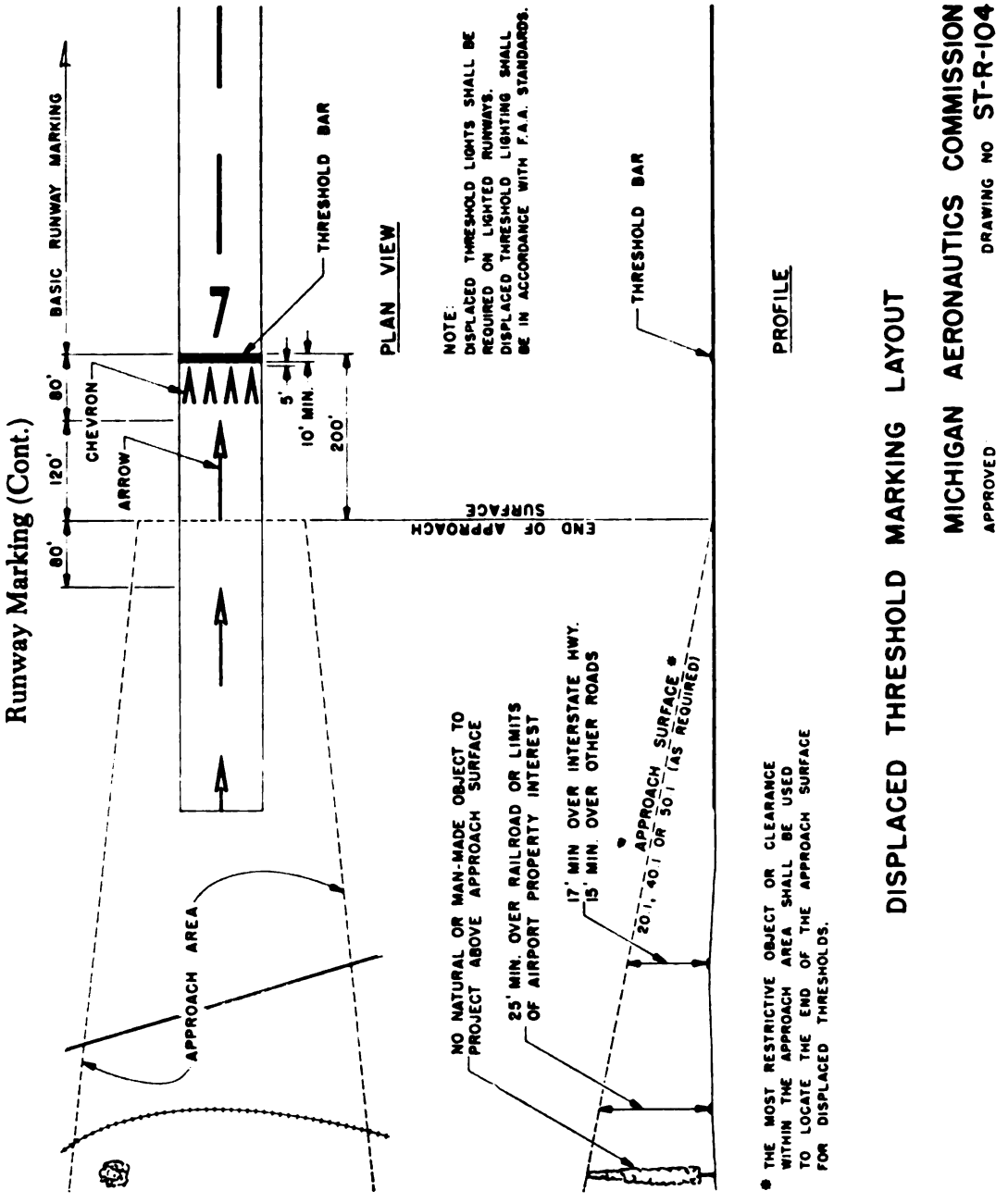
Cross-references: For Drawing Nos. ST-R-102 and ST-R-103, see pp. 770 and 771.

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Runway Marking



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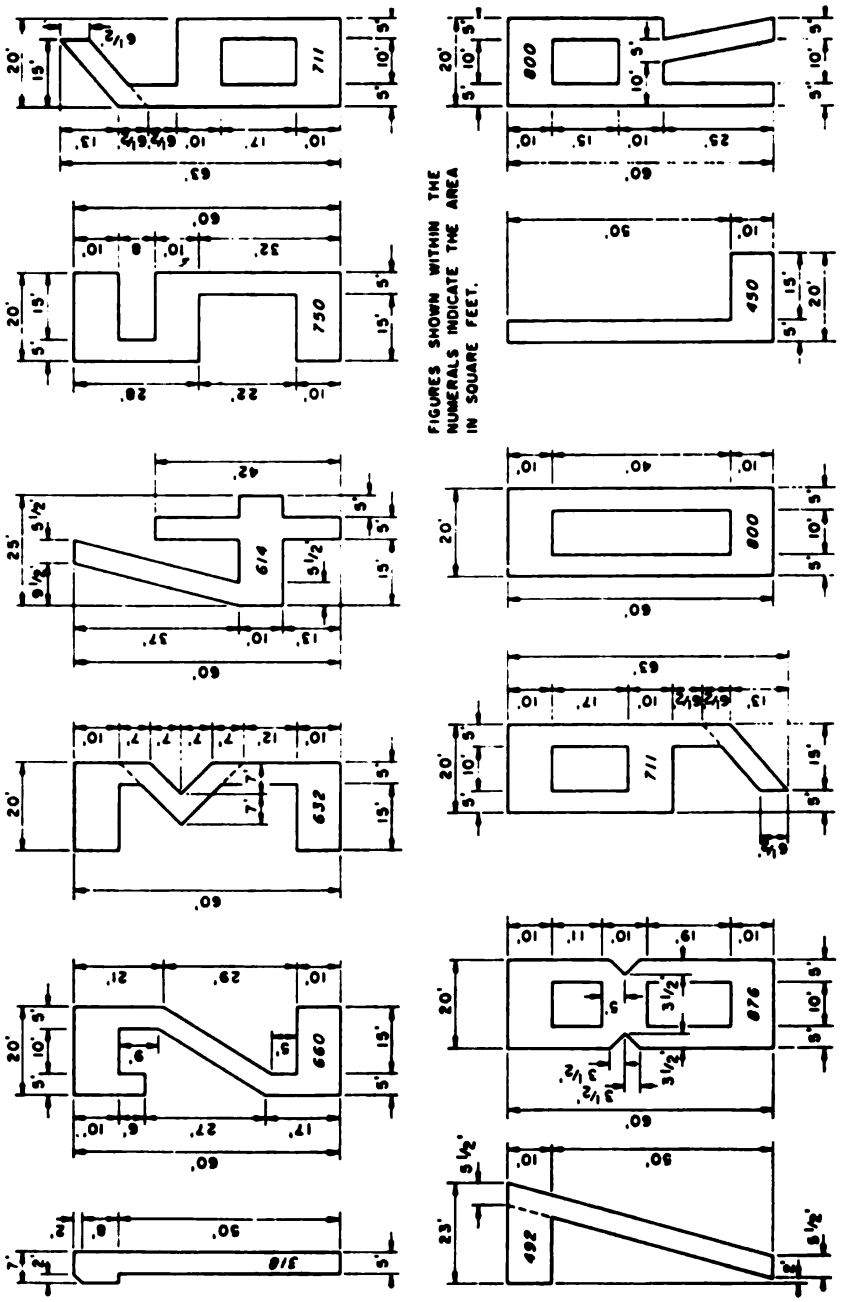
DISPLACED THRESHOLD MARKING LAYOUT

MICHIGAN AERONAUTICS COMMISSION

APPROVED DRAWING NO ST-R-104

History: 1954 ACS 52, p. 24, Eff. Nov. 15, 1967.

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Runway Marking Details (Cont.)

TYPICAL NUMBER SPACING

ARROWS AND CHEVRONS

GENERAL NOTES

1. ALL RUNWAY MARKINGS SHALL BE PAINTED A SOLID WHITE COLOR.
2. A PROPORTIONAL REDUCTION IN THE SIZE AND TRANSVERSE SPACING OF NUMERALS AND CHEVRONS MAY BE USED FOR RUNWAYS LESS THAN 75 FEET IN WIDTH.
3. ARROWS SHALL NOT BE REDUCED IN SIZE.
4. ARROWS SHALL BE REPEATED AT THE PROPER SPACING FOR THE FULL LENGTH OF THE PAVEMENT ON THE APPROACH SIDE OF A DISPLACED THRESHOLD. A PARTIAL ARROW MAY BE REQUIRED AT THE PAVEMENT END
5. WHERE MARKINGS OF TWO RUNWAYS CONFLICT, PREFERENCE IN MARKING LOCATION SHALL BE GIVEN TO THE MOST IMPORTANT RUNWAY.
6. PARALLEL RUNWAYS SHALL BE MARKED WITH AN "L" OR "R" BELOW THE RUNWAY NUMBER. DETERMINATION OF "LEFT" OR "RIGHT" IS MADE FROM THE APPROACH DIRECTION.
7. DESIRABLE PAINT COVERAGE IS 100 - 125 SQUARE FEET PER GALLON.

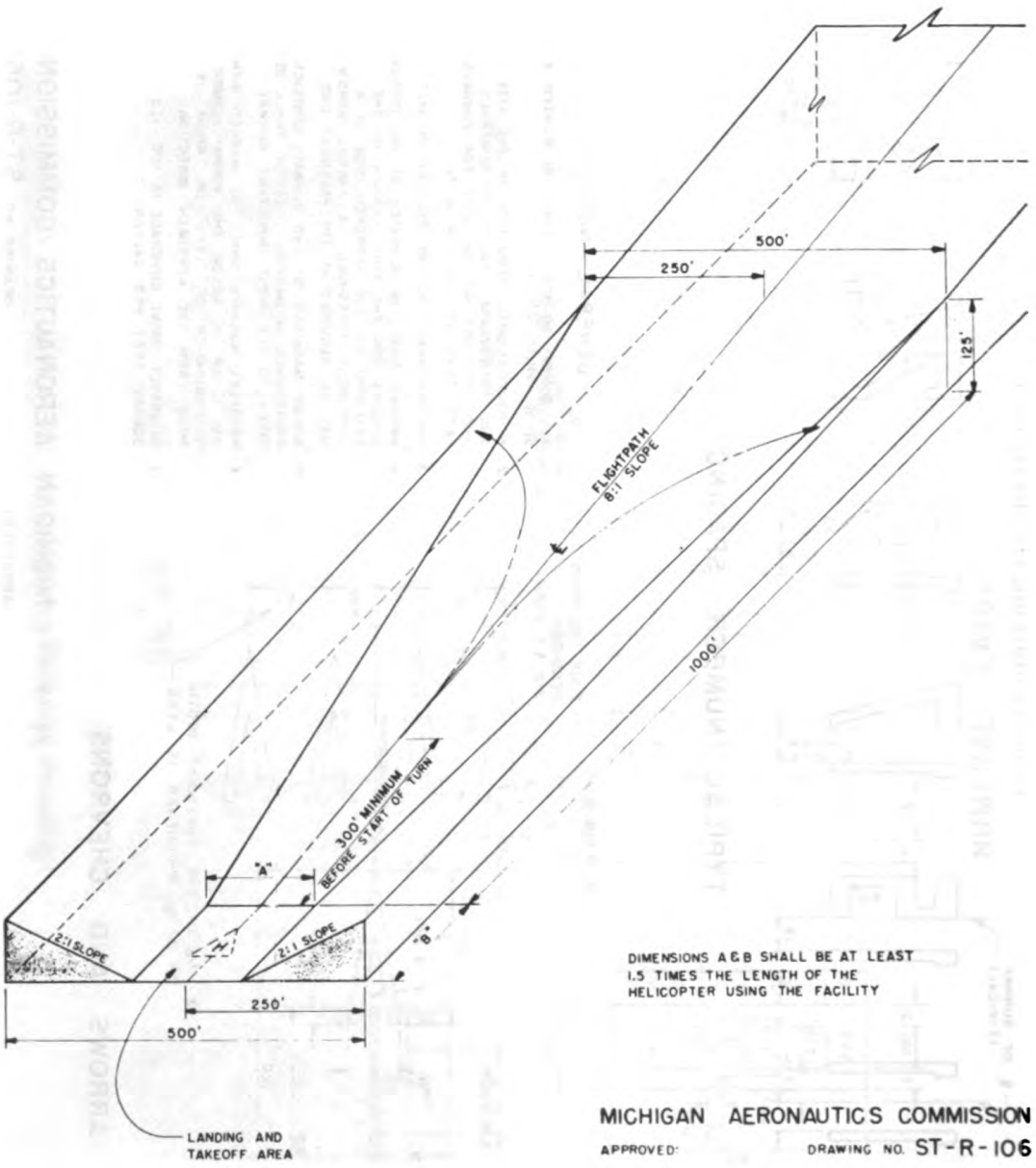
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APPROVED: DRAWING NO. ST-R-105

History: 1954 ACS 52, p. 25, Eff. Nov. 15, 1967.

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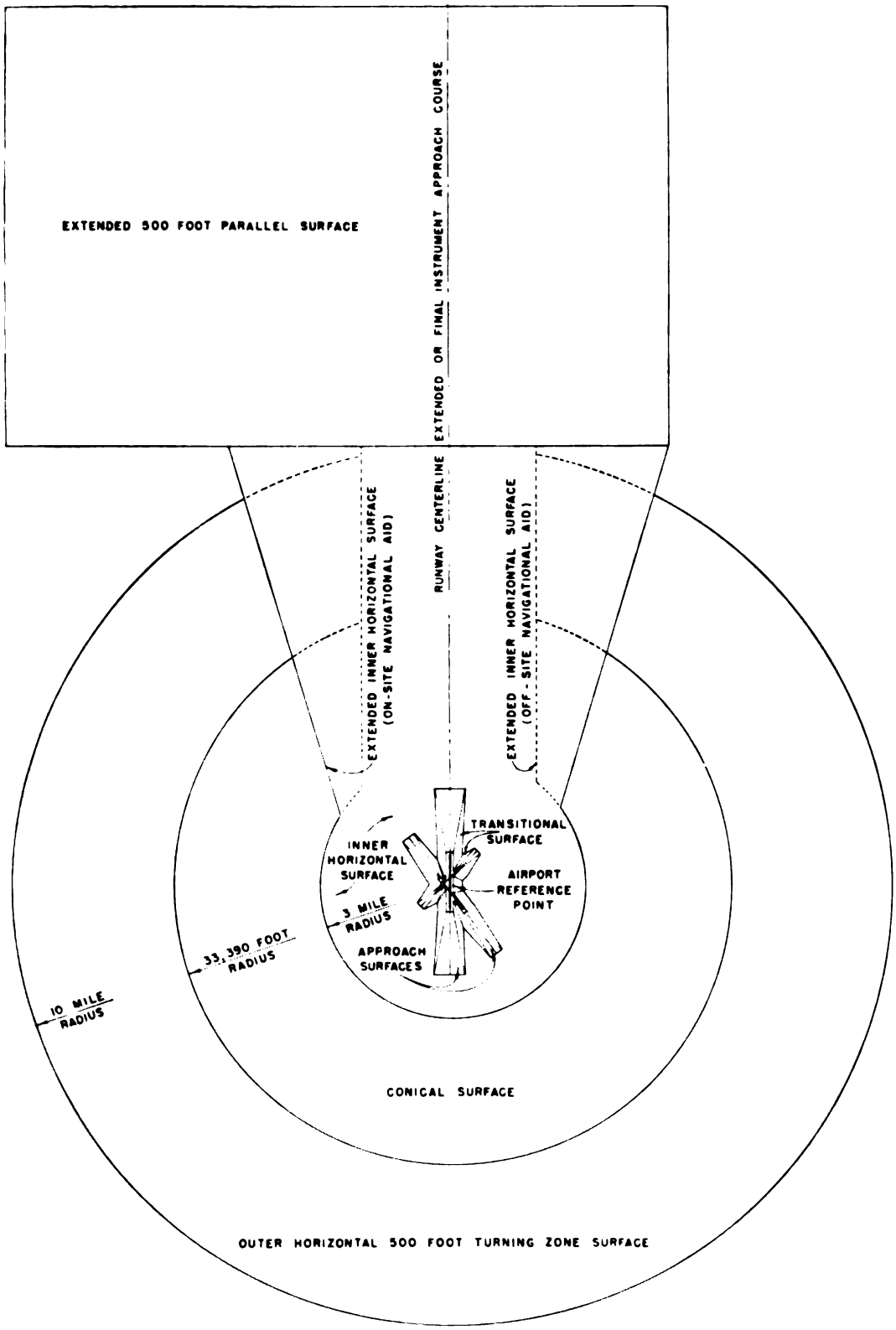
Heliport Landing Area and Approach Zone



History: 1954 ACS 52, p. 26, Eff. Nov. 15, 1967.

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Standard Approach



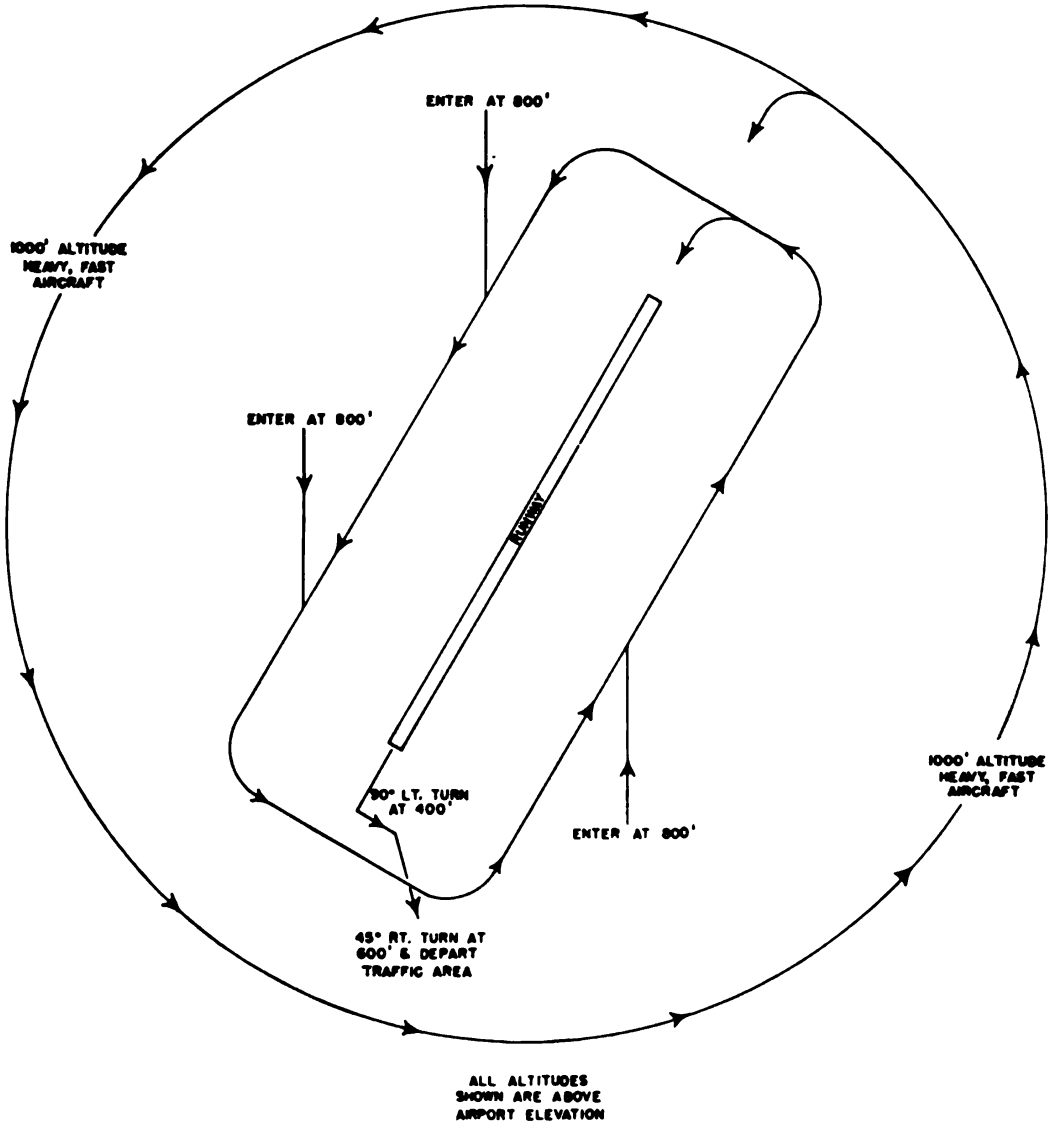
MICHIGAN AERONAUTICS COMMISSION

APPROVED: DRAWING NO. ST-R-107

History: 1954 ACS 52, p. 27, Eff. Nov. 15, 1967.

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Standard Traffic Pattern



MICHIGAN AERONAUTICS COMMISSION

APPROVED: DRAWING NO. ST-R-108

History: 1954 ACS 52, p. 28, Eff. Nov. 15, 1967.

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AIRPORT DEVELOPMENT LOANS

(By authority conferred on the aeronautics commission by section 3 of Act No. 107 of the Public Acts of 1969, and Executive Reorganization Order Nos. 1973-1 and 1973-1a, being §§259.253 and 247.821 of the Michigan Compiled Laws)

R 259.801 Purpose.

Rule 1. These rules are prescribed requirements and procedures for the use of state funds for airport development loans to establish new publicly owned airports and to develop and improve existing publicly owned airports, and to provide for the orderly processing and expeditious closing of mortgage loans authorized by Act No. 107 of the Public Acts of 1969, being §§259.251 to 259.255 of the Michigan Compiled Laws.

History: 1954 ACS 79, p. 16, Eff. May 22, 1974.

R 259.802 Eligibility and priorities.

Rule 2. (1) A publicly owned airport is eligible for state loan funds.

(2) An airport development and improvement project, including land acquisition is eligible for state loan funds.

(3) To make the most effective use of state loan funds, the following project priorities are established in the order stated:

(a) Communities having no publicly owned airport and listed in the current national airport plan as compiled by the federal aviation administration or airports listed in the current state airport plan as compiled by the aeronautics commission.

(b) Projects which upgrade substandard airports to minimum standards for new airports. "Substandard airports," as used in this rule, means those not complying with current rules of the aeronautics commission. Projects which replace a substandard or unexpandable airport.

(c) Projects at non-air carrier airports.

(d) Projects at air carrier airports or replacement for an economically unexpandable air carrier airport. Air carrier airports are those so certificated by the civil aeronautics board.

History: 1954 ACS 79, p. 16, Eff. May 22, 1974.

R 259.803 Applications.

Rule 3. (1) A publicly owned airport sponsor shall initiate a loan request with a letter of application signed by a responsible official of the governing body, briefly describing the improvement project.

(2) The governing body attorney shall render a legal opinion indicating the legality of the sponsor's proposed mortgage loan, including proof of the sponsor's authority to request the loan.

History: 1954 ACS 79, p. 16, Eff. May 22, 1974.

R 259.804 Commission studies and approval.

Rule 4. (1) The aeronautics commission staff shall make a feasibility study of the proposed project upon receipt of the sponsor's application. In making its study, the commission will consider the following:

(a) Projected future growth in the airport service area.

(b) Engineering design of the project.

(c) Total cost of the project.

(d) Financial ability of the sponsor to carry out the project.

(e) Term of the loan.

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(2) The commission staff shall advise the sponsor promptly of the results of the feasibility study.

(3) If the project is accepted, the commission staff shall issue a conditional mortgage commitment, subject to the approval of the commission, which approval shall not be withheld unreasonably.

(4) Subsequent to commission approval, the commission staff shall forward to the sponsor model resolutions, model title opinion, grant agreement, mortgage note and first mortgage and loan amortization schedule.

History: 1954 ACS 79, p. 16, Eff. May 22, 1974.

R 259.805 Mortgage loans.

Rule 5. (1) A public sponsor shall execute the required documents and shall supply the aeronautics commission with an attorney's title opinion dated subsequent to the loan application date.

(2) A mortgage loan shall be made in an amount at an interest rate and with a maturity as provided for by the act.

(3) A mortgagor shall execute a mortgage note and first mortgage, which pledges all of the publicly owned airport land as security for the loan.

(4) Payments of principal and interest shall be paid promptly as agreed at the offices of the mortgagee, aeronautics commission, Lansing, Michigan.

(5) Upon full repayment of principal and interest, the mortgagee shall give a discharge of mortgage promptly.

History: 1954 ACS 79, p. 16, Eff. May 22, 1974.

R 259.806 Maintenance and amortization.

Rule 6. (1) The agreement on airports under the Michigan aid, airport loan program requires maintenance of the airport by the airport sponsor. These covenants shall be enforced by the aeronautics commission staff.

(2) The airport sponsor shall adhere strictly to the amortization schedule.

(3) Failure to repay a loan timely or failure to maintain the airport as agreed are grounds for mortgage foreclosure.

History: 1954 ACS 79, p. 17, Eff. May 22, 1974.

R 259.807 Records and crediting of payments.

Rule 7. The aeronautics commission staff shall keep adequate records of loan repayments of principal and interest. Principal and interest payments shall be credited as provided by the act.

History: 1954 ACS 79, p. 17, Eff. May 22, 1974.

CAPITAL CITY AIRPORT TRAFFIC CODE

(By authority of section 107 of Act No. 327 of the Public Acts of 1945, as amended, being §259.107 of the Michigan Compiled Laws)

PART 1. DEFINITIONS

R 259.1101 Short title.

Rule 101. These rules shall be known and cited as the capital city airport traffic code.

History: 1954 ACS 35, p. 18, Eff. Aug. 14, 1963.

R 259.1102 Words and phrases defined.

Rule 102. The following words and phrases when used in this code shall, for the purpose of this code, have the meanings respectively ascribed to them in this

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rule. Whenever any words and phrases used herein are not defined herein, but are defined in Act No. 300 of the Public Acts of 1949, as amended, any such definition therein shall be deemed to apply to such words and phrases used herein.

(a) "Authorized emergency vehicle" means vehicles of the fire department, police vehicles, ambulances, emergency vehicles of governmental departments, or such vehicles of public service corporations and privately owned motor vehicles of volunteer and paid firemen, as are authorized by the director.

(b) "Bus" means every motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons.

(c) "Bus stand or bus stop" means a fixed area in the roadway parallel and adjacent to the curb to be occupied exclusively by buses for layover in operating schedules or waiting for, loading or unloading passengers.

(d) "Commercial vehicle" includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(e) "Cross walk" means any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(f) "Curb loading zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(g) "Director" means director of aeronautics, as defined in the aeronautics code, Act No. 327 of the Public Acts of 1945, as amended, being §259.1 et seq. of the Michigan Compiled Laws.

(h) "Driver" means every person who drives or is in actual physical control of a vehicle.

(i) "Freight curb loading zone" means a space adjacent to a curb for exclusive use of vehicles during the loading or unloading of freight.

(j) "Intersection" means:

(i) The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of 2 highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(ii) Where a highway includes 2 roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes 2 roadways 30 feet or more apart, then every crossing of 2 roadways of such highways shall be regarded as a separate intersection.

(k) "Laned roadway" means a roadway which is divided into 2 or more clearly marked lanes for vehicular traffic.

(l) "Limousine" means a sedan accommodating 2 or more persons, driven by a chauffeur.

(m) "Limousine stop" or "limousine stand" means a fixed area in the roadway set aside for limousines to stand or wait for passengers.

(n) "Manager" means manager of the capital city airport, with general supervision over the airport and its operation.

(o) "Motorcycle" means every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground but excluding a tractor.

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(p) "Motor driven cycle" means every motorcycle, including every motor scooter, with a motor which produces not to exceed 5 maximum brake horsepower, and every bicycle with motor attached.

(q) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(r) "Operator" means every person, other than a chauffeur, who is in actual physical control of a motor vehicle.

(s) "Owner" means:

(i) Any person, firm, association, or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

(ii) A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner.

(t) "Parking" means standing a vehicle, whether occupied or not, upon a highway, when not loading or unloading except when making necessary repairs.

(u) "Parking meter zone" means an area adjacent to a parking meter set aside for the exclusive use of vehicles upon the deposit of a coin of United States currency in said parking meter as specified thereon.

(v) "Passenger curb loading zone" means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(w) "Pedestrian" means any person afoot.

(x) "Person" means every natural person, firm, copartnership, association, or corporation and their legal successors.

(y) "Police officer" means every member of the Michigan state police and every sheriff or deputy sheriff of any county wherein any airport, landing field or aeronautical facility governed by this code is located.

(z) "Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular traffic.

(aa) "Right-of-way" means the privilege of the immediate use of the highway.

(bb) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel. In the event a highway includes 2 or more separate roadways, the term "roadway," as used herein, shall refer to any such roadway separately, but not to all such roadways collectively.

(cc) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of roadway, and the adjacent property lines intended for the use of pedestrians.

(dd) "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

(ee) "Stop," when required, means complete cessation from movement.

(ff) "Stop or stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(gg) "Street or highway" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

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(hh) "Taxicab" means a licensed public motor vehicle for hire designated and constructed to seat not more than 10 persons and operating as a common carrier on call or demand.

(ii) "Taxicab stand" means a fixed area in the roadway set aside for taxicabs to stand or wait for passengers.

(jj) "Traffic" means pedestrians, vehicles, and other conveyances, either singly or together, while using any highway for purposes of travel.

(kk) "Traffic control devices" means all signs, signals, markings, and devices not inconsistent with this ordinance placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(ll) "Traffic control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(mm) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(nn) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

History: 1954 ACS 35, p. 18, Eff. Aug. 14, 1963.

R 259.1103 Tenses.

Rule 103. The present tense includes the past and future tenses; and the future, the present.

History: 1954 ACS 35, p. 18, Eff. Aug. 14, 1963.

R 259.1104 Number; gender.

Rule 104. The singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine and neuter, as requisite.

History: 1954 ACS 35, p. 18, Eff. Aug. 14, 1963.

R 259.1105 Shall and may.

Rule 105. "Shall" and "may" mean "shall" is mandatory and "may" is permissive.

History: 1954 ACS 35, p. 18, Eff. Aug. 14, 1963.

PART 2. ADMINISTRATION

R 259.1201 Airport manager; powers and duties.

Rule 201. The airport manager is hereby directed to exercise the powers and duties provided in this ordinance in a manner consistent with traffic safety practices and in the best interests of aeronautics. It shall be his general duty, with the aid and advice of the commissioner of the Michigan state police, and under the direct supervision of the director of the department, to plan and direct the operation of traffic on the roadways and boulevards within the boundaries of the capital city airport. It shall be his further duty to establish parking areas therein, designate limits and uses thereof; to install appropriate signs implementing the provisions of this ordinance; and to certify as to the installation, removal or authorization of such devices and signs as the director of the department shall so order.

History: 1954 ACS 35, p. 21, Eff. Aug. 14, 1963.

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R 259.1202 Airport manager; notices to public.

Rule 202. The airport manager shall determine and designate the locations for the erection of stop signs; for the erection and location of signs relating to stopping, standing or parking; for the location of cross walks, safety zones and traffic lines; for the erection of speed restriction signs, turn signs, loading zones, taxi stands, rental car stands, bus stands, and any other required notices to the public thereof.

History: 1954 ACS 35, p. 21, Eff. Aug. 14, 1963.

R 259.1203 Authority to impound vehicles.

Rule 203. Police officers are hereby authorized to remove a vehicle from the airport proper or from any street, highway, or parking lot governed by this code to the nearest garage or other place of safety, or to a garage designated or maintained by the aeronautics commission under the circumstances hereinafter enumerated:

(a) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

(b) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(c) When a vehicle is found being driven upon the streets and is not in proper condition to be driven.

(d) When a vehicle is left unattended upon a street or parking lot continuously for more than 24 hours and may be presumed to be abandoned.

(e) When the driver of such vehicle is taken into custody by the police and such vehicle would thereby be left unattended upon the street.

(f) When removal is necessary in the interest of public safety because of fire, flood, storm, snow, or other emergency reason.

History: 1954 ACS 35, p. 22, Eff. Aug. 14, 1963.

R 259.1204 Notifying owner of impounded vehicle.

Rule 204. Whenever an officer removes a vehicle from a street as authorized in this ordinance, and the officer knows or is able to ascertain the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal, and the reasons therefor, and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a garage, a copy of such notice shall be given to the proprietor of such garage.

History: 1954 ACS 35, p. 22, Eff. Aug. 14, 1963.

R 259.1205 Notifying secretary of state of impounded vehicle.

Rule 205. Whenever an officer removes a vehicle from a street as authorized in this code, and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of 3 days, then and in that event the officer shall, within a reasonable period of time, send or cause to be sent a written report of such removal by mail to the secretary of state, and shall file a copy of such notice with the proprietor of any garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time, and place from which removed, the

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reasons for such removal, and the name of the garage or place where the vehicle is stored.

History: 1954 ACS 35, p. 22, Eff. Aug. 14, 1963.

R 259.1206 Notifying airport manager of impounded vehicle.

Rule 206. Whenever an officer removes a vehicle as authorized by this code, he shall file a report within 12 hours with the airport manager, which report shall contain a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

History: 1954 ACS 35, p. 22, Eff. Aug. 14, 1963.

PART 3. ACCIDENTS: DUTY TO STOP AND REPORT

R 259.1301 Damage to vehicle; stopping; giving information.

Rule 301. The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident and shall remain thereat and shall give his name, address, and the registration number of the vehicle he is driving, also the name and address of the owner, and exhibit his operator's or chauffeur's license to the driver or occupants of any vehicle collided with. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a violation of this code.

History: 1954 ACS 35, p. 22, Eff. Aug. 14, 1963.

R 259.1302 Accident; fixtures on or adjacent to highway; report.

Rule 302. The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a street or other property shall take reasonable steps to locate and notify the airport manager or his assistant of such accident and of his name and address and of the registration number of the vehicle he is driving and shall upon request exhibit his operator's or chauffeur's license and, if such airport manager or his assistant cannot be found, shall forthwith report such accident to the nearest or most convenient police officer.

History: 1954 ACS 35, p. 23, Eff. Aug. 14, 1963.

R 259.1303 Injury to or death of person; stopping; giving information and aid.

Rule 303. The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident upon airport property resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident and shall remain thereat and shall give his name, address and the registration number of the vehicle he is driving, also the name and address of the owner, and exhibit his operator's or chauffeur's license to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance in securing medical aid or transportation of injured person or persons. Every such stop shall be made without obstructing traffic more than is necessary.

History: 1954 ACS 35, p. 23, Eff. Aug. 14, 1963.

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R 259.1304 Unattended vehicle; report.

Rule 304. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle, or if such owner cannot be located, shall forthwith report it to the nearest or most convenient police officer.

History: 1954 ACS 35, p. 23, Eff. Aug. 14, 1963.

R 259.1305 Duty to report accidents forthwith.

Rule 305. The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of $100.00 or more, shall forthwith report such accident to the airport manager or the nearest Michigan state police officer, or sheriff or deputy sheriff.

History: 1954 ACS 35, p. 23, Eff. Aug. 14, 1963.

R 259.1306 Accident report; form.

Rule 306. Every accident report required to be made under the provisions of this chapter shall be made on a form approved by the commissioner of the Michigan state police and the director.

History: 1954 ACS 35, p. 23, Eff. Aug. 14, 1963.

PART 4. SPEED REGULATIONS

R 259.1401 Speed restrictions.

Rule 401. (1) No person shall drive a vehicle on a roadway at a speed greater than is reasonable and prudent under the conditions then existing.

(2) Speed where no special hazard exists. The following speeds shall be prima facie lawful, but any speed in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful:

(a) 45 miles per hour on capital city boulevard;

(b) 35 miles per hour on service roads;

(c) 20 miles per hour on drives in proximity to buildings;

(d) any other number of miles per hour when and as posted.

(3) The fact that the speed of a vehicle is lower than the foregoing prima facie limits shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when traveling upon any narrow or winding roadway, or when special hazards exist with respect to pedestrians or other traffic or by reason of weather or roadway conditions, and speed shall be decreased as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the roadway in compliance with legal requirements and the duty of all persons to use due care.

(4) In every charge of violation of the provision of this rule, by driving a vehicle in excess of the applicable speed limits specified under subrule (2), the complaint and also the summons or notice to appear shall specify the speed applicable within the district or at the location, and in the event charges shall also be made of violation of any other provisions of these rules, the complaint and the summons or notice to appear shall also specify such other offense alleged to have been committed.

History: 1954 ACS 35, p. 23, Eff. Aug. 14, 1963.

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R 259.1402 Speed signs.

Rule 402. The airport manager shall, with the approval of the aeronautics commission, establish and post speed limits upon airport property. It shall be prima facie unlawful to exceed the speed stated on signs erected in accordance with this section.

History: 1954 ACS 35, p. 24, Eff. Aug. 14, 1963.

PART 5. TRAFFIC

R 259.1501 Stop signs.

Rule 501. Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection and shall proceed into the intersection only when such movement can be made in safety and without interfering with other traffic, except when directed to proceed by a police officer or traffic-control signal.

History: 1954 ACS 35, p. 24, Eff. Aug. 14, 1963.

R 259.1502 Stop when traffic obstructed.

Rule 502. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

History: 1954 ACS 35, p. 24, Eff. Aug. 14, 1963.

R 259.1503 Passing stopped vehicle at intersection.

Rule 503. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at any intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

History: 1954 ACS 35, p. 24, Eff. Aug. 14, 1963.

R 259.1504 Right-of-way at intersections.

Rule 504. When 2 vehicles enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right except as otherwise provided. The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have hereunder.

History: 1954 ACS 35, p. 24, Eff. Aug. 14, 1963.

R 259.1505 Yield right-of-way signs.

Rule 505. Where signs bearing the message "yield right-of-way" are erected upon the approach to an intersection, a driver approaching such sign shall slow to a reasonable speed for existing conditions of traffic and visibility, yielding the right-of-way to all traffic on the intersecting street which is so close as to constitute an immediate hazard. The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have hereunder.

History: 1954 ACS 35, p. 24, Eff. Aug. 14, 1963.

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R 259.1506 Right-of-way; vehicle turning left at intersection.

Rule 506. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this code, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn; provided that an intersection at which a traffic signal is located, a driver intending to make a left turn shall permit vehicles bound straight through in the opposite direction which are awaiting a go signal to pass through the intersection before making the turn.

History: 1954 ACS 35, p. 24, Eff. Aug. 14, 1963.

R 259.1507 Drive on right side of roadway; exceptions.

Rule 507. Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway divided into 3 marked lanes for traffic under the rules applicable thereon.

(d) Upon a roadway designated and signposted for 1-way traffic.

History: 1954 ACS 35, p. 25, Eff. Aug. 14, 1963.

R 259.1508 Passing vehicles proceeding in opposite directions.

Rule 508. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than 1 line of traffic in each direction each driver shall give to the other at least ½ of the main-traveled portion of the roadway as nearly as possible.

History: 1954 ACS 35, p. 25, Eff. Aug. 14, 1963.

R 259.1509 Overtaking and passing on left of moving vehicles.

Rule 509. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereafter stated:

(a) The driver of any vehicles overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, and when safely clear of such overtaken vehicle shall take up a position as near the right-hand edge of the main-traveled portion of the highway as is practicable.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

History: 1954 ACS 35, p. 25, Eff. Aug. 14, 1963.

R 259.1510 Overtaking and passing on right of moving vehicles.

Rule 510. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn.

(b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for 2 or more lines of moving vehicles in each

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direction and when such vehicles are moving in substantially continuous lanes of traffic.

(c) Upon a 1-way street, or upon any roadway on which traffic is restricted to 1 direction of movement, where the roadway is free from obstructions and of sufficient width for 2 or more lines of moving vehicles and when such vehicles are moving in substantially continuous lanes of traffic.

(d) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

History: 1954 ACS 35, p. 25, Eff. Aug. 14, 1963.

R 259.1511 Overtaking and passing on left; restrictions.

Rule 511. No vehicle shall be driven to the left side of the center of a 2-lane street or in the center lane of a 3-lane street in overtaking and passing another vehicle proceeding in the same direction, unless such left side or center lane is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

History: 1954 ACS 35, p. 25, Eff. Aug. 14, 1963.

R 259.1512 Left of center operation; prohibition.

Rule 512. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(a) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(b) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

History: 1954 ACS 35, p. 25, Eff. Aug. 14, 1963.

R 259.1513 No passing zones.

Rule 513. The driver of a vehicle shall not overtake and pass any vehicle in a no passing zone where official signs or markings on the roadway indicate the beginning and end of such zone and when such signs or markings are in place and clearly visible to an ordinarily observant person.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

R 259.1514 One-way streets and rotary traffic islands.

Rule 514. Vehicular traffic shall move only in the indicated direction upon those streets and parts of streets and on those roadways around rotary traffic islands where signs have been erected indicating traffic shall move in only 1 direction. A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

R 259.1515 Following too closely.

Rule 515. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the street.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

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PART 6. TURNS

R 259.1601 Access to roadways.

Rule 601. No person shall drive a vehicle onto or from any roadway, except at such entrances and exits as are established by public authority.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

R 259.1602 Driving on divided highways.

Rule 602. Whenever any highway has been divided into 2 roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall park or be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or intersection established by public authority.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

R 259.1603 Required position and method of turning at intersections.

Rule 603. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left turns on 2-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(c) Left turns on other than 2-way roadways. At any intersection where traffic is restricted to 1 direction on 1 or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and, after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

R 259.1604 Obedience to turning markers.

Rule 604. When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

R 259.1605 Obedience to no turn signs.

Rule 605. Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

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R 259.1606 Limitations on turning around.

Rule 606. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not, upon any other street, so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

History: 1954 ACS 35, p. 26, Eff. Aug. 14, 1963.

R 259.1607 Signals for starting, stopping, or turning.

Rule 607. The driver of any vehicle upon a street, before starting, stopping or turning from a direct line, shall first see that such movement can be made in safety and shall give a signal as required hereafter.

(a) Manner of signaling. The required signal shall be given either by means of the hand and arm in the manner hereafter specified, or by a mechanical or electrical signal device which conveys an intelligible signal or warning to another driver approaching from the rear.

(b) Arm signal. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop, or turn by extending the hand and arm horizontally from and beyond the left side of the vehicle.

History: 1954 ACS 35, p. 27, Eff. Aug. 14, 1963.

PART 7. MISCELLANEOUS

R 259.1701 Operation of vehicle without license or required equipment prohibited; exceptions.

Rule 701. No vehicle shall be operated on any roadway or airport governed by this code unless such vehicle is equipped and licensed in accordance with the provisions of Act No. 300 of the Public Acts of 1949, as amended, and unless the driver or operator of such vehicle is licensed under the provisions of Act No. 300 of the Public Acts of 1949, as amended. The airport manager, with the approval of the director, may provide for exceptions to this rule.

History: 1954 ACS 35, p. 27, Eff. Aug. 14, 1963.

R 259.1702 Operation of vehicles on approach of authorized emergency vehicles.

Rule 702. Upon the immediate approach of an authorized emergency vehicle equipped with at least 1 lighted flashing, rotating, or oscillating lamp exhibiting red light visible under normal atmospheric condition from a distance of 500 feet to the front of such vehicle and when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

History: 1954 ACS 35, p. 27, Eff. Aug. 14, 1963.

R 259.1703 Following fire apparatus prohibited.

Rule 703. The driver of any vehicle other than an authorized emergency vehicle on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm.

History: 1954 ACS 35, p. 27, Eff. Aug. 14, 1963.

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R 259.1704 Reckless driving.

Rule 704. No person shall drive any vehicle upon a highway or any other place open to the general public, including any area designated for the parking of motor vehicles, carelessly and heedlessly in wilful or wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property.

History: 1954 ACS 35, p. 27, Eff. Aug. 14, 1963.

R 259.1705 Driving while under the influence of intoxicating liquor or narcotic drugs.

Rule 705. It shall be unlawful for any person whether licensed or not who is an habitual user of narcotic drugs, barbital, or any derivative of barbital, or any person who is under the influence of intoxicating liquor or narcotic drugs, barbital, or any derivation of barbital, to drive any vehicle upon any street or any other place open to the general public, including any area designated for the parking of motor vehicles.

History: 1954 ACS 35, p. 27, Eff. Aug. 14, 1963.

R 259.1706 Permission by owner or person having charge of motor vehicle.

Rule 706. It shall also be unlawful for the owner of any motor vehicle or any person having such in charge or in control thereof to authorize or knowingly permit the same to be driven or operated upon any street or any other place open to the general public, including any area designated for the parking of motor vehicles by any person who is an habitual user of narcotic drugs, barbital, or any derivative of barbital or any person who is under the influence of intoxicating liquor or narcotic drugs, barbital, or any derivative of barbital.

History: 1954 ACS 35, p. 27, Eff. Aug. 14, 1963.

R 259.1707 Obedience to signal indicating approach of railroad train.

Rule 707. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this rule, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(c) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1708 When permits required for parades and processions.

Rule 708. No procession or parade, excepting the forces of the United States armed services, the military forces of this state, and the forces of the police and fire departments, shall occupy, march, or proceed along any roadway except in accordance with a permit issued by the airport manager and such other regulations as are set forth herein which may apply.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

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R 259.1709 Safety zones occupied by persons.

Rule 709. The driver of a vehicle shall not at any time drive through or over a safety zone when such safety zone contains any person thereon.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1710 Vehicles shall not be driven on a sidewalk.

Rule 710. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1711 Limitations on backing.

Rule 711. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1712 Crossing fire hose.

Rule 712. No vehicle shall be driven over any unprotected fire hose of a fire department without the consent of the fire department official in command.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1713 Boarding or alighting from vehicles.

Rule 713. No person shall board or alight from any vehicle while such vehicle is in motion.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1714 Splashing.

Rule 714. No driver of a motor vehicle shall recklessly, wilfully, wantonly, or carelessly operate his vehicle in such manner as to splash snow, rain, water, mud, dirt, or debris on any person then upon a sidewalk, crosswalk or safety zone.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1715 Wrecked or damaged vehicles.

Rule 715. Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1716 Spilling loads on streets prohibited.

Rule 716. No vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

R 259.1717 Interference with driver's view or control.

Rule 717. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

History: 1954 ACS 35, p. 28, Eff. Aug. 14, 1963.

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R 259.1718 Position of passengers.

Rule 718. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1719 Possession; display.

Rule 719. Every driver shall have his operator's or chauffeur's license in his immediate possession at all times when driving a motor vehicle, and shall display the same upon demand of any police officer.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1720 Unlawful display or representation.

Rule 720. It is unlawful for any person to display or to represent as one's own any operator's or chauffeur's license not issued to the person so displaying the same.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1721 Instruction permit.

Rule 721. It shall be unlawful for an operator holding an instruction permit to operate a motor vehicle unless accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1722 Unlicensed driver; owner's permission.

Rule 722. No person shall knowingly authorize or permit a motor vehicle owned by him or under his control to be driven by any person who is unlicensed to drive such vehicle.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1723 Lights; spotlights.

Rule 723. Every vehicle operated upon a roadway or an airport governed by this code shall be equipped with lights which shall be lighted in accordance with the provisions of Act No. 300 of the Public Acts of 1949, as amended. Spotlights shall be so aimed and used upon approaching another vehicle that no part of the beam will be directed into the eyes of the approaching driver. Such spotlights shall not be directed toward aircraft in the air or on the ground.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1724 Flashing lights prohibited.

Rule 724. No vehicles, except those authorized by these rules, shall display any flashing, oscillating, or rotating light.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1725 Flashing red, blue, or amber lights authorized.

Rule 725. Flashing, oscillating, or rotating red, blue, or amber lights may be used only as follows:

(a) By authorized emergency vehicles as provided by these rules. State, county, or municipal vehicles engaged in snow removal or ice control operations shall be equipped with flashing, oscillating, or rotating amber lights placed in such position on the vehicle as to be visible throughout 360 degrees.

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(b) By public utility service vehicles, ambulances, authorized emergency vehicles, automobile service cars, and wreckers engaged in removing or assisting vehicles at the site of traffic accidents and government owned vehicles actually engaged in the maintenance or repair of the street.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1726 Size, weight, and load.

Rule 726. No person shall drive or move or cause or knowingly permit to be driven or moved on any street any vehicle or vehicles of width, height, length, or weight in excess of the limitations governing size and weight restrictions specified in the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as amended.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1727 Lamp or flag on projecting load.

Rule 727. Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, during the hours between ½ hour after sunset and ½ hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this rule shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

History: 1954 ACS 35, p. 29, Eff. Aug. 14, 1963.

R 259.1728 Display on vehicle of official designation.

Rule 728. No owner shall display upon any part of his vehicle or knowingly permit the display thereon of any official designation, sign, or insignia of any public or quasi-public corporation, municipal, state or national department or government subdivision without authority of such agency.

History: 1954 ACS 35 p. 30, Eff. Aug. 14, 1963.

R 259.1729 Motorcycles; motor-driven cycles.

Rule 729. Every person operating a motorcycle or motor-driven cycle upon a roadway shall be granted all rights and shall be subject to all the duties applicable to the driver of a vehicle under these rules, except as to those provisions which by their nature can have no application.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

R 259.1730 Number and manner of carrying persons; motorcycles and motor-driven cycles.

Rule 730. A person operating a motorcycle or motor-driven cycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle or motor-driven cycle unless such motorcycle or motor-driven cycle is designed to carry more than 1 person, in which event, a passenger may ride upon the permanent and regular seat if designed for 2 persons, or upon another seat firmly attached to the vehicle, to the rear or side of the operator.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

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R 259.1731 Two abreast.

Rule 731. Persons operating motorcycles or motor-driven cycles upon a roadway shall not ride more than 2 abreast.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

R 259.1732 Carrying articles.

Rule 732. No person operating a motorcycle or motor-driven cycle shall carry any package, bundle, or article which prevents the operator from keeping both hands upon the handlebars of said vehicle.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

R 259.1733 Spotlights.

Rule 733. A motorcycle shall not be equipped with more than 1 spotlight.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

PART 8. STOPPING, STANDING, AND PARKING

R 259.1801 Standing or parking close to curb.

Rule 801. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 12 inches of the curb or edge of the roadway, except as otherwise provided in this chapter.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

R 259.1802 One-way streets.

Rule 802. Vehicles may park with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of properly signed 1-way streets.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

R 259.1803 Obedience to angle parking signs or markings.

Rule 803. Upon those streets which have been signed or marked for angle parking, no person shall stop, stand, or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

R 259.1804 Obstructing roadway.

Rule 804. No person shall stop, stand, or park any vehicle upon a roadway in such a manner or under such conditions as to leave available insufficient width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or, when necessary, in obedience to traffic regulations, traffic signs or signals, or a police officer.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

R 259.1805 Vehicle starting from parked position.

Rule 805. A vehicle starting from a parked position shall give moving vehicles the right-of-way, and the operator of such vehicle shall give a timely and visible warning signal before so starting.

History: 1954 ACS 35, p. 30, Eff. Aug. 14, 1963.

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R 259.1806 Angle parking.

Rule 806. A vehicle parked at an angle to the curb and about to start shall give moving vehicles the right-of-way, and the operator thereof shall not back such vehicle from the curb into the moving lane of traffic unless such maneuver can be made in safety and without conflict with moving vehicles.

History: 1954 ACS 35, p. 31, Eff. Aug. 14, 1963.

R 259.1807 Lights on parked vehicles.

Rule 807. (1) Whenever a vehicle is lawfully parked on a street or roadway and there is sufficient natural or artificial light to reveal any person within a distance of 500 feet upon such street or roadway, no lights need be displayed upon such parked vehicle. If there is insufficient natural or artificial light, there shall be displayed upon the left side of such vehicle 1 or more lamps which shall exhibit a white light on the roadway side visible from a distance of 500 feet to the front of the vehicle and a red light visible from a distance of 500 feet to the rear of the vehicle.

(2) Any lighted headlights upon a parked vehicle shall be depressed or dimmed.

History: 1954 ACS 35, p. 31, Eff. Aug. 14, 1963.

R 259.1808 Prohibiting parking.

Rule 808. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(a) On a sidewalk.

(b) In front of a public driveway.

(c) Within an intersection.

(d) Within 15 feet of a fire hydrant.

(e) On a crosswalk.

(f) Within 20 feet of a crosswalk, or if none, then within 15 feet of the intersection of property lines at an intersection of streets.

(g) Within 30 feet upon the approach to any flashing beacon, stop sign, yield right-of-way sign, or traffic-control signal located at the side of a street.

(h) Within 50 feet of the nearest rail of a railroad crossing.

(i) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted.

(j) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

(k) On the street side of any vehicle stopped or parked at the edge or curb of a street.

(l) Within 200 feet of an accident at which police officers are in attendance.

(m) In any place or in any manner so as to block immediate egress from any emergency exit or exits conspicuously marked as such of buildings.

(n) In any place or in any manner so as to block or hamper the immediate use of an immediate egress from any fire escape conspicuously marked as such providing an emergency means of egress from any building.

(o) At any place where official signs prohibit stopping, standing, or parking.

(p) In any metered parking area in any place other than a metered space.

History: 1954 ACS 35, p. 31, Eff. Aug. 14, 1963.

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R 259.1809 Motor buses, limousines, and taxis; stopping.

Rule 809. Motor buses, limousines and taxis, for the purpose of taking on or discharging passengers, may be stopped at the places designated in R 259.1808 (b), (d), and (f), or on the street side of a vehicle illegally parked in a legally designated bus, limousine or taxi loading zone.

History: 1954 ACS 35, p. 31, Eff. Aug. 14, 1963.

R 259.1810 Driving off roadway prohibited.

Rule 810. No person shall drive a motor vehicle or park such vehicle upon the grass or over a curb or beyond the designated roadway width or off the shoulder of a roadway unless otherwise directed to do so by a police officer.

History: 1954 ACS 35, p. 31, Eff. Aug. 14, 1963.

R 259.1811 Moving parked vehicle.

Rule 811. No person shall move a vehicle not lawfully under his control into any prohibited parking area or away from a curb such distance as is unlawful.

History: 1954 ACS 35, p. 31, Eff. Aug. 14, 1963.

R 259.1812 Parking for certain purposes prohibited.

Rule 812. It shall be unlawful for any person to park upon a street or roadway any vehicle:

(a) Displayed for sale.

(b) For washing, greasing, or repairing such vehicle, except repairs necessitated by an emergency.

(c) Exhibiting such vehicle or any article or thing thereon or therein as a prize in any lottery, drawing, game of chance, reward, or number pool.

(d) It shall be unlawful to park or operate upon a street or roadway any vehicle or conveyance whereon there is operated any loudspeaker, public address system, or radio device for the purpose of advertising, calling attention to any show, performance, sale, or display of merchandise.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

R 259.1813 Unattended motor vehicle.

Rule 813. No person having control or charge of a motor vehicle shall allow such vehicle to stand on any roadway or in any parking lot unattended without first effectively setting the brakes thereon and stopping the motor of said vehicle. No person shall leave any motor vehicle unattended upon any roadway or in any parking lot without removing the keys and locking the ignition of said vehicle.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

R 259.1814 Prohibitions and restrictions; signs required.

Rule 814. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with traffic or in compliance with law or the direction of a police officer, in violation of any legally established parking restriction or prohibition; provided that signs stating such restrictions or prohibitions are duly posted. A driver of a passenger vehicle may stop temporarily in such restricted or prohibited zones for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with traffic.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

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R 259.1815 Standing in passenger curb loading zone.

Rule 815. No person shall stop, stand, or park a vehicle for any purpose or period of time, except for the expeditious loading or unloading of passengers, in any place marked as a passenger curb loading zone during hours when the rules applicable to such passenger curb loading zone are effective, and then only for a period not to exceed 5 minutes.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

R 259.1816 Standing in freight curb loading zone.

Rule 816. No person shall stop, stand, or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pick-up and loading of materials, in any place marked as a freight curb loading zone during hours when the provisions applicable to such zone are in effect.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

R 259.1817 Driver may stop temporarily.

Rule 817. The driver of a vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

R 259.1818 Stopping, standing, or parking of buses, limousines, and taxicabs regulated.

Rule 818. The operator of a bus, limousine, or taxicab shall not stop, stand, or park upon any roadway at any place other than at a bus stop, limousine stop, or taxicab stand, respectively, except that this provision shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other stopping, standing, or parking regulations at any place for the purpose of and while engaged in the expeditious loading or unloading of passengers.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

R 259.1819 Restricted use of bus, limousine, and taxicab stands.

Rule 819. No person shall stop, stand, or park a vehicle other than a bus in a bus stop, a limousine in a limousine stop, or a taxicab in a taxicab stand, when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus, limousine, or taxicab waiting to enter or about to enter such zone.

History: 1954 ACS 35, p. 32, Eff. Aug. 14, 1963.

R 259.1820 Metered parking zones.

Rule 820. When parking meters are erected adjacent to a space marked for parking, such space shall be a metered parking zone and no person shall stop a vehicle in any such zone for a period of time longer than designated on said parking meters upon the deposit of a coin of United States currency of the denomination designated on said meters on the days and during the time said regulations are in force as designated on said meters.

History: 1954 ACS 35, p. 33, Eff. Aug. 14, 1963.

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R 259.1821 Drivers to park within spaces.

Rule 821. Every vehicle shall be parked wholly within the metered parking space for which the meter shows parking privilege has been granted, except that a vehicle which is of a size too large to be parked within a single designated parking meter zone shall be permitted to occupy 2 adjoining parking meter spaces when coins shall have been deposited in the parking meter for each space so occupied as is required in these rules for the parking of other vehicles in such space.

History: 1954 ACS 35, p. 33, Eff. Aug. 14, 1963.

R 259.1822 Parking lots regulated.

Rule 822. No person shall drive a vehicle into a parking lot through the "exit" side of the parking lot access roadway, or drive a vehicle from a parking lot through the "entrance" side of the parking lot access roadway, unless directed to do so by a police officer or parking lot attendant.

History: 1954 ACS 35, p. 33, Eff. Aug. 14, 1963.

R 259.1823 Prima facie evidence; parking violators.

Rule 823. In any proceeding for a violation of this code relating to the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any law or rule, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

History: 1954 ACS 35, p. 33, Eff. Aug. 14, 1963.

PART 9. ENFORCEMENT

R 259.1901 Traffic law enforcement.

Rule 901. It shall be the duty of the Michigan state police, sheriffs, or assigned deputy sheriffs to enforce the provisions of this code, to make arrests for traffic violations, to assist in the prosecution of persons charged with such violations, to investigate accidents, to cooperate with the airport manager and other officials in the administration of the airport traffic code and in developing ways and means to improve traffic conditions and to carry out those duties specially imposed by this code and any amendments thereto.

History: 1954 ACS 35, p. 33, Eff. Aug. 14, 1963.

R 259.1902 Penalties.

Rule 902. Any violation of this code shall constitute a misdemeanor; unless otherwise provided for in this code, every person convicted of a violation of any provision of this code shall be punished by a fine of not more than $100.00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

History: 1954 ACS 36, p. 5, Eff. Aug. 14, 1963.

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DEPARTMENT OF TRANSPORTATION AND DEPARTMENT OF AGRICULTURE

DRAINAGE ASSESSMENTS

(By authority conferred on the department of state highways and transportation and the department of agriculture by section 14a of Act No. 51 of the Public Acts of 1951, as added, being §247.664a of the Michigan Compiled Laws)

R 280.1 Definitions.

Rule 1. (1) "Apportionment" means that portion or share of the total cost of a drainage improvement, expressed as a percentage, to be borne by the assessed party by reason of benefits to a state highway or county road.

(2) "Assessment" means the apportionment expressed as a monetary amount.

(3) "County road" means a roadway, including the right-of-way, under the jurisdiction of a county road commission. It includes property contiguous to a roadway owned in fee or easement by the county which is used for highway purposes. It does not include facilities such as garage sites and office buildings that are not contiguous to the highway right-of-way.

(4) "Department" means the Michigan department of highways and transportation.

(5) "Drainage district" means the total area of land contributing storm water runoff to the drain or portion of the drain under consideration.

(6) "Rainfall intensity" means the rate of rainfall in inches per hour.

(7) "Runoff" means that part of the rainfall which drains off the land rather than being absorbed.

(8) "Runoff coefficient" means the ratio of the rate of runoff to the rate of rainfall at an average storm intensity if all the drainage area is contributing.

(9) "State highway" means a roadway, including the right-of-way, under the jurisdiction of the department which is part of a designated system of highways. It includes property contiguous to the highway owned in fee or in easement by the department which is used for highway purposes. It does not include facilities such as garage sites and office buildings that are not contiguous to the highway right-of-way.

History: 1954 ACS 92, p. 6, Eff. Aug. 31, 1977.

R 280.2 Computation of basic benefits.

Rule 2. (1) Basic benefits for county roads and state highways shall be computed in direct proportion to the pro rata share of storm water from county roads and state highways within the drainage district to the total design storm water runoff from the drainage district.

(2) Storm water runoff quantities (Q) shall be determined for the drainage district by use of the accepted engineering formula, $Q = ciA$, this being the product of the runoff coefficient (c), referred to in table I set forth in R 280.9, the rainfall intensity (i), and the area of the drainage district (A). Rainfall intensity is assumed to be of uniform rate throughout the drainage district.

(3) Storm water runoff quantities (Q) for a county road or a state highway shall be determined by using the same method as that used for the entire drainage district. Computation examples are set forth in R 280.7 and R 280.8.

(4) If the rainfall intensity used in the design of a county road or a state highway drainage facility is not the same as the rainfall intensity used in the design

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of the enclosed receiving county drain or intercounty drain, the basic benefit computed for the county road or the state highway shall be multiplied by the number which expresses the ratio of the design runoff from the county road or state highway to the design runoff for the receiving county or intercounty drain according to the recurrence interval factors. (See table II set forth in R 280.9.)

History: 1954 ACS 92, p. 7, Eff. Aug. 31, 1977.

R 280.3 Computation of supplemental benefits.

Rule 3. (1) Supplemental benefits for county roads and state highways, which shall result from maintenance, improvement, or the installation of facilities, structures, or mechanical devices jointly determined to be necessary by the highway jurisdiction and drain commissioner or drainage board to accommodate or relieve county road drainage or state highway drainage, shall be computed in the direct proportion of the estimated cost or the actual cost, if known, of such maintenance, improvement, facilities, structures, or mechanical devices to the estimated construction cost or the actual construction cost, if known, of the total project.

(2) Supplemental benefits for county roads and state highways, which shall result by reason of special specifications or construction conditions required by county highway authorities and state highway authorities, shall be computed in the direct proportion of the estimated cost or the actual cost, if known, of such special specifications or construction conditions to the estimated construction cost or the actual construction cost, if known, of the total project.

History: 1954 ACS 92, p. 7, Eff. Aug. 31, 1977.

R 280.4 Apportionments.

Rule 4. (1) Apportionments to a county for county road benefits and to the department for state highway benefits shall be based on benefits computed and determined under R 280.2 and R 280.3, except that such apportionments shall not include the cost of work performed under R 280.4(2).

(2) The department or a county road commission may enter into agreements with a drain commissioner or drainage board to perform additional work which is not subject to these rules. Cost of work performed under such agreements shall not be included with the assessments to the department or the county road commission.

(3) A county road commission or the department shall be notified of its apportionments pursuant to Act No. 40 of the Public Acts of 1956, as amended, being §280.1 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 92, p. 7, Eff. Aug. 31, 1977.

R 280.5 Assessments.

Rule 5. (1) Assessments shall be according to the apportioned ratio of the total cost of a project.

(2) If a project is financed by the sale of bonds, evidence that the bonds shall be sold shall be presented with the apportionment notice.

(3) Fifty percent of the cost of drain assessments against a county for drainage of county roads shall be paid by the county road commission from county road funds.

History: 1954 ACS 92, p. 8, Eff. Aug. 31, 1977.

R 280.6 Reports.

Rule 6. Expenditures for county drain assessments shall be reported by each county road commission to the state highway commission. The reports shall be

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made as of December 31 of each year and shall be submitted by March 1 of the following year.

History: 1954 ACS 92, p. 8, Eff. Aug. 31, 1977.

R 280.7 Average runoff coefficient; computation examples.

Rule 7. The following examples demonstrate the desired method of computing the average runoff coefficient (A.R.C.) for cross-sections commonly employed in the construction of county roads and state highways.

(a) Cross-section A—dual roadway:
300′ ROW

Consisting of:			Tabulation:	
Pavements	2-24′		48′ x 0.90 =	43.2
Paved shoulders	2-10′		20′ x 0.90 =	18.0
Gravel shoulders	2-8′		16′ x 0.50 =	8.0
Berms	216′		216′ x 0.20 =	43.2
		Totals	300′	112.4

Average runoff coefficient: 112.4 ÷ 300′ = 0.375

(b) Cross-section B—urban roadway:
83′ ROW

Consisting of:			Tabulation:	
Pavement & C/G	57′		57′ x 0.90 =	51.3
Sidewalks	2-5′		10′ x 0.90 =	9.0
Berms	16′		16′ x 0.20 =	3.2
		Totals	83′	63.5

Average runoff coefficient: 63.5 ÷ 83′ = 0.765

(c) Cross-section C—dual roadway (depressed):
240′ ROW

Consisting of:			Tabulation:	
Pavement & C/G	2-53′		106′ x 0.90 =	95.4
Paved median	21′		21′ x 0.90 =	18.9
Paved shoulders	2-9.5′		19′ x 0.90 =	17.1
Berms	94′		94′ x 0.20 =	18.8
		Totals	240′	150.2

Average runoff coefficient: 150.2 ÷ 240′ = 0.626

(d) Cross-section D—rural roadway:
66′ ROW

Consisting of:			Tabulation:	
Gravel road	20′		20′ x 0.7 =	14.0
Gravel shoulders	2-5′		10′ x 0.5 =	5.0
Berms	36′		36′ x 0.2 =	7.2
		Totals	66′	26.2

Average runoff coefficient: 26.2 ÷ 66′ = 0.397

History: 1954 ACS 92, p. 8, Eff. Aug. 31, 1977.

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R 280.8 Pro rata share of runoff for county roads and state highways; computation examples.

Rule 8. The computations hereinafter set forth are included to clarify the method by which the pro rata share of runoff for county roads and state highways may be determined.

Formula: Q = ciA

Q = runoff
c = runoff coefficient
i = rainfall intensity
A = area

Rainfall intensity is assumed to be constant throughout the drainage district, according to R 280.2 (2), and since the apportionment is based on the pro rata share of the runoff, the rainfall intensity has been deleted from these computations.

(a) Computation No. 1:

Given:

Drainage district	670.00 acres
State highway ROW—dual roadway	17.65 acres
County road ROW—rural type	31.23 acres
Remaining lands—agricultural type (See subdivision (c))	621.12 acres

Find: The pro rata shares of the runoff for state highways, county roads, and remaining lands.

Solution

State highway	17.65 A x 0.375 =	6.619 equivalent runoff acres
County roads	31.23 A x 0.397 =	12.398 equivalent runoff acres
Remaining lands	621.12 A x 0.200 =	124.224 equivalent runoff acres
Totals	670.00 A	143.241 equivalent runoff acres

Pro rata share for state highways:

$$\frac{6.619}{143.241} = 4.621\%$$

Pro rata share for county roads:

$$\frac{12.398}{143.241} = 8.655\%$$

Pro rata share for remaining lands:

$$\frac{124.224}{143.241} = 86.724\%$$

(b) Computation No. 2:

Given:

Drainage district	32.00 acres
State highway ROW—urban type	6.33 acres
County road ROW—urban type	1.47 acres
County road ROW—rural type	2.78 acres
Remaining lands—residential type (See subdivision (c))	21.42 acres

Find: The pro rata shares of the runoff for state highways, county roads, and remaining lands.

Solution

State highway	6.33 A x 0.765 =	4.842 equivalent runoff acres
County roads	1.47 A x 0.765 =	1.125 equivalent runoff acres
County roads	2.78 A x 0.397 =	1.104 equivalent runoff acres

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Remaining lands ..... 21.42 A x 0.500 = 10.710 equivalent runoff acres
Totals 32.00 A 17.781 equivalent runoff acres

Pro rata share for state highway:

$$\frac{4.842}{17.781} = 27.231\%$$

Pro rata share for county roads:

$$\frac{1.125 + 1.104}{17.781} = 12.536\%$$

Pro rata share for remaining lands:

$$\frac{10.710}{17.781} = 60.233\%$$

(c) Utilities, railroads, or streets may also be subtracted from the total entitled "remaining lands," and computed on an equitable "c" factor at the discretion of the assessing authority.

History: 1954 ACS 92, p. 8, Eff. Aug. 31, 1977.

R 280.9 Tables.

Rule 9. The tables referred to in these rules are set forth as follows:

TABLE I

Type of Surface	Runoff Coefficient
Concrete or asphalt pavement	0.8 - 0.9
Commercial and industrial	0.7 - 0.9
Gravel roadways and shoulders	0.5 - 0.7
Residential—urban	0.5 - 0.7
suburban	0.3 - 0.5
Undeveloped	0.1 - 0.3
Berms	0.1 - 0.3
Agricultural—cultivated fields	0.15 - 0.4
pastures	0.1 - 0.4
forested areas	0.1 - 0.4

For flat slopes or permeable soil, lower values shall be used. For steep slopes or impermeable soil, higher values shall be used. Steep slopes are 2:1 and steeper.

TABLE II

Rainfall Intensity Conversion Factors
(Design of Drainage Channels, FHWA, Hydraulic Design Series No. 4)

Duration in Minutes	Factor	Duration in Minutes	Factor
5	2.22	40	0.8
10	1.71	50	0.7
15	1.44	60	0.6
20	1.25	90	0.5
30	1.00	120	0.4

Note: U.S. Weather Bureau says "Rainfall amounts for the 5-, 10-, and 15-minute durations may be obtained by multiplying the 30-minute values by 0.37, 0.57, and 0.72, respectively."

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Recurrence Interval Factors
(Design of Drainage Channels, FHWA, Hydraulic Design Series No. 4)

Recurrence Interval in Years	Factor
2	1.0
5	1.3
10	1.6
25	1.9
50	2.2

Storm Rating Based on 50-Year Maximum Rainfall
(Handbook of Steel Drainage and Highway Construction Products, AISI, 2nd Edition)

Storm Rating	One-Hour Maximum Rainfall
1 year	0.428
5 years	0.659
10 years	0.762
25 years	0.898
50 years	1.000
100 years	1.108

History: 1954 ACS 92, p. 10, Eff. Aug. 31, 1977.

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DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND RESOURCE PROGRAMS

R 281.1—R 281.19 Rescinded.

History: 1954 ACS 78, pp. 12-15, Eff. Jan. 12, 1974; 1954 ACS 87, pp. 6-8, Eff. Apr. 9, 1976; rescinded 1954 ACS 96, p. 60, Eff. Aug. 17, 1978.

GREAT LAKES SHORELANDS

(By authority conferred on the natural resources commission by section 11 of Act No. 245 of the Public Acts of 1970, as amended, and Executive Reorganization Order Nos. 1973-2 and 1976-1, being §§281.641 and 299.11 of the Michigan Compiled Laws)

R 281.21 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 245 of the Public Acts of 1970, as amended, being §281.631 et seq. of the Michigan Compiled Laws, and known as the shorelands protection and management act of 1970.

(b) "Bluffline" means the line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front inclining steeply on the lakeward side.

(c) "Minimum required setback" means the distance between the bluffline and the lakeward edge of the permanent structure.

(d) "100-year flood" means the flood having a 1% chance of being equalled or exceeded in any given year.

(e) "Parcel" means a continuous area or acreage of land which is in the same ownership at the time of designation.

(f) "Permanent structure" means a residential building, commercial building, industrial building, institutional building, mobile home, accessory and related buildings, septic systems, tile field or other waste handling facility erected, installed, or moved on a parcel of property. This definition does not include recreational vehicles or travel trailers; nor does it include appurtenant structures that are less than 15 feet by 15 feet by 10 feet high which are used for picnicking, storage of recreational or lawn equipment, and are constructed in a manner which facilitates easy removal. The appurtenant structure shall not have a permanent foundation and shall not be used as a residential facility.

(g) "Structure zone" means an area within an environmental area where a permit is not required to engage in the activities specified in R 281.23(6).

(h) "Wetland-oriented birds" means waterfowl, shorebirds, gulls, terns, herons, rails, bitterns, or other birds associated with coastal or wetland areas.

(i) "Wetland-oriented mammals" means muskrats, mink, beaver, otter or other mammals associated with coastal or wetland habitats.

(2) The terms defined in the act shall have the same meaning when used in these rules.

History: 1954 ACS 96, p. 54, Eff. Aug. 17, 1978.

R 281.22 High-risk erosion areas.

Rule 2. (1) Prior to designation of a high-risk erosion area, the department shall mail pre-designation letters to the affected landowners of record as shown in

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the last assessment rolls. The letter shall explain that the property is being considered for designation as a high-risk erosion area and shall invite comments from the affected landowners. The department shall schedule a meeting prior to designation to explain the proposed designation to property owners and local governmental agencies.

(2) The department shall designate a high-risk erosion area upon its finding that bluffline recession has been occurring at an average annual rate of 1.0 foot or greater per year, based on a minimum period of 15 years. The designation shall contain the minimum required setback from the bluffline for any future permanent structure. The setback shall be based on a projected 30-year period of bluffline recession.

(3) In designating a high-risk erosion area, the department shall notify the landowner of record and the local governmental agency affected thereby. The notice of designation shall be delivered personally or sent by certified mail to the landowner of record at the address given in the last assessment roll.

(4) The notice of designation to affected landowners and local governmental agencies shall include all of the following information:

(a) The authority and reasons for designation of high-risk erosion areas.

(b) A description, graphic or otherwise, of the limits of the high-risk erosion area.

(c) An explanation of any regulatory measures which may be required in the high-risk erosion area and the regulatory role of the local governmental agency.

(d) The procedure by which the designation may be appealed.

(5) The department shall consider additional high-risk erosion areas as may be proposed by local governmental agencies, citizens, or interested groups.

(6) A regulation may be modified upon presentation of engineering studies acceptable to the department documenting annual recession rates at variance with department recession rate data. Upon department acceptance of the data as accurate and compatible with the objectives of the act, a structure setback from the bluffline shall be calculated and implemented based on the new recession rate information.

(7) In the absence of an approved local ordinance enacted pursuant to sections 7, 8, 9, and 10 of the act, any person or local governmental agency proposing to erect, install, or move a permanent structure on a parcel, any portion of which is a designated high-risk erosion area, shall submit to the department for its approval a permit application. The permit application shall contain all of the following information:

(a) A legal description of the property.

(b) A description of the proposed permanent structure.

(c) A sketch of the proposed site, showing the location of the proposed permanent structure in relation to the location of the bluffline.

(d) The signature and address of the applicant.

(8) A permit application to erect, install, or move a permanent structure on a parcel, any portion of which is in a designated high-risk erosion area shall be approved if the proposed permanent structure meets or exceeds the minimum setback requirements established by the department.

(9) If a parcel which has been established prior to the high-risk erosion area designation does not have adequate depth to provide the minimum required setback from the bluffline for a permanent structure, a permanent structure which can be moved prior to damage from erosion may be allowed by a special exception. A special exception shall be granted only if criteria (a) and (b) and either (c) or (d) of this subrule are met:

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(a) If a sanitary sewer is not used, the septic system shall be located on the landward side of the permanent structure.

(b) The permanent structure shall be located as far landward of the bluffline as local zoning restrictions allow.

(c) The permanent structure shall be structurally designed and constructed to be moveable in accordance with proper engineering standards and building moving restrictions applicable to the subject area. Review and approval of the design shall be incorporated into the department of natural resources permit process. All construction materials, including foundations, shall be removed or disposed of as part of the moving operation. Access to and from the structure site shall be of sufficient width and acceptable grade to allow for moving of the permanent structure.

(d) A department-approved erosion control device is constructed and maintained by a state, county, municipal, or township government.

(10) Not more than 60 days after receipt of a permit application, the department shall send by certified mail to the applicant a notice of its approval or disapproval. In case of disapproval, the reasons therefor shall be stated. A permit application which does not require field investigation shall be processed within 20 days.

(11) Approval of a permit does not exempt the applicant from complying with other statutes, ordinances, or regulations.

(12) Any aggrieved party that contests the designation of a high-risk erosion area or the disapproval of a permit application shall be granted a hearing if a petition is filed with the department not more than 60 days after the designation letter or the notice of disapproval is sent. Such petition should be sent to the Director, Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909. The hearing shall be conducted in accordance with the provisions for contested cases in Act No. 306 of the Public Acts of 1969, as amended, being §24.271 et seq. of the Michigan Compiled Laws and R 299.3071 to R 299.3081 of the Michigan Administrative Code.

(13) The landowner of record and the local governmental agency shall be sent a notice by certified mail if the high-risk erosion area designation is removed.

(14) All high-risk erosion area designations in existence at the effective date of these rules shall remain in full force and effect.

History: 1954 ACS 98, p. 55, Eff. Aug. 17, 1978.

R 281.23 Environmental areas.

Rule 3. (1) In determining whether an area is necessary for the preservation and maintenance of fish, the following uses shall be considered:

(a) Spawning, which is the placement and fertilization of eggs by fish for the propagation of young.

(b) Nursery, which is the utilization of an area by young fish as a sheltered habitat in which to feed and grow.

(c) Feeding, which is the process of obtaining and ingesting plant or animal matter necessary for maintaining growth and life functions.

(d) Protection, which is the utilization of an area as escape cover from predators or unsuitable environmental conditions.

(e) Migration, which is a daily or seasonal movement.

(2) In determining whether an area is necessary for the preservation and maintenance of wildlife, the following uses by wetland-oriented birds and wetland-oriented mammals shall be considered:

(a) Breeding, which is the process of courting, pairing, and mating.

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(b) Nesting, which is the process of laying, incubating, and hatching eggs.

(c) Rearing of young, which is the feeding and protection of young.

(d) Feeding, which is the process of obtaining and ingesting plant or animal matter necessary for maintaining growth and life functions.

(e) Resting, which is a period of inactivity in the daily routine or seasonal migration.

(3) Prior to designation of environmental areas, the department shall mail predesignation letters to the affected landowners of record as shown in the last assessment rolls. The letter shall explain that the property is being considered for designation as an environmental area and shall invite comments from the affected landowners. The department shall schedule a meeting prior to designation to explain the proposed designation to property owners and local governmental agencies.

(4) The department shall designate environmental areas determined to be necessary for the preservation and maintenance of fish and wildlife. The notice of designation shall be delivered personally or sent by certified mail to the landowner of record at the address given in the last assessment roll and to the local governmental agency.

(5) The notice of designation to affected landowners and local governmental agencies shall include all of the following information:

(a) The authority and reasons for designation of environmental areas.

(b) A description, graphic or otherwise, of the limits of the environmental area.

(c) An explanation of any regulatory measures which may be required in environmental areas and the regulatory role of the local governmental agency.

(d) The procedure by which the designation may be appealed.

(6) The following shoreland uses in an environmental area shall require a permit from the department in accordance with these rules or from a local governmental agency pursuant to an ordinance approved by the department:

(a) Dredging, filling, grading, or other alterations of the soil.

(b) Alteration of natural drainage, but not including the reasonable care and maintenance of established drainage improvement works. A permit is not required for maintenance of existing dikes.

(c) Alteration of vegetation utilized by fish or wildlife, or both, for the uses covered in subrules (1) and (2) of this rule. Timber harvest shall not require a permit unless it involves an identified colonial bird nesting area, such as a heron rookery.

(d) Placement of permanent structures.

(7) Farming of lands within the environmental area is allowed without a permit if artificial draining, pumping, diking, dredging, or filling are not used. Pumping of water into an environmental area is allowed without a permit.

(8) The operation of an off-road vehicle in an environmental area shall be regulated by Act No. 319 of the Public Acts of 1975, as amended, and Act No. 323 of the Public Acts of 1976, being §257.1601 et seq. and §317.171 et seq. of the Michigan Compiled Laws.

(9) A structure zone not to exceed 12,000 square feet shall be delineated for all parcels of land which are totally included within the boundaries of an environmental area at the time of designation. If a parcel has less than 12,000 square feet of land outside the boundaries of the environmental area, a structure zone shall be delineated which, in conjunction with the land outside the environmental area, shall total 12,000 square feet. Use of a structure zone is subject to all other statutes, ordinances, and regulations.

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(10) The department shall consider additional environmental areas as may be proposed by local governmental agencies, citizens, or interested groups.

(11) In the absence of an approved zoning ordinance enacted pursuant to sections 7, 8, 9, and 10 of the act, any person or local governmental agency proposing one of the uses regulated in subrule (6) of this rule outside the structure zone or proposing a change in the location of a structure zone shall submit to the department a permit application for the proposed use. The permit application shall contain all of the following:

(a) A legal description of the property.

(b) A drawing of the site with the proposed project clearly shown.

(c) A detailed description of the proposed project.

(d) The signature and address of the applicant.

(12) A permit application as described in R 281.23(11) shall be approved if both of the following conditions are satisfied:

(a) The adverse effects to the uses described in R 281.23(1) and (2) are minimal and shall be mitigated to the maximum extent feasible.

(b) No feasible and prudent alternative to the proposed plan is available.

(13) Not more than 60 days after receipt of a permit application, the department shall send by certified mail to the applicant a notice of its approval or disapproval. In case of disapproval, the reasons therefor shall be stated. A permit application which does not require field investigation shall be processed within 20 days.

(14) Approval of a permit does not exempt the applicant from complying with other statutes, ordinances, and regulations.

(15) Any aggrieved party that contests the designation of an environmental area or the disapproval of a permit application shall be granted a hearing if a petition is filed with the department not more than 60 days after the designation letter or the notice of disapproval is sent. Such petition should be sent to the Director, Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909. The hearing shall be conducted in accordance with the provisions for contested cases in Act No. 306 of the Public Acts of 1969, as amended, and in R 299.3071 to R 299.3081 of the Michigan Administrative Code.

(16) The landowner of record and the local governmental agency shall be sent a notice by certified mail if the environmental area designation is removed.

(17) All environmental area designations in existence at the effective date of these rules shall remain in full force and effect.

History: 1954 ACS 98, p. 56, Eff. Aug. 17, 1978.

R 281.24 Flood risk areas.

Rule 4. (1) Any area which is within the 100-year floodplain of a Great Lake or a connecting waterway, as identified in one of the following approved floodplain delineation studies, is designated as a flood risk area. Said documents are listed as follows and incorporated into these rules by reference:

(a) Flood insurance study, city of East Tawas, Michigan, Iosco county, U.S. department of housing and urban development, federal insurance administration, September, 1977.

(b) Flood insurance study, city of Escanaba, Michigan, Delta county, U.S. department of housing and urban development, federal insurance administration, September, 1977.

(c) Flood insurance study, city of Gladstone, Michigan, Delta county, U.S. department of housing and urban development, federal insurance administration, September, 1977.

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(d) Flood insurance study, city of Harbor Springs, Michigan, Emmet county, U.S. department of housing and urban development, federal insurance administration, November, 1976.

(e) Flood insurance study, city of Monroe, Michigan, Monroe county, U.S. department of housing and urban development, federal insurance administration, December, 1976.

(f) Flood insurance study, city of Muskegon, Michigan, Muskegon county, U.S. department of housing and urban development, federal insurance administration, December, 1976.

(g) Flood insurance study, township of Muskegon, Michigan, Muskegon county, U.S. department of housing and urban development, federal insurance administration, August, 1977.

(h) Flood insurance study, city of North Muskegon, Michigan, Muskegon county, U.S. department of housing and urban development, federal insurance administration, November, 1976.

(i) Flood insurance study, city of Norton Shores, Michigan, Muskegon county, U.S. department of housing and urban development, federal insurance administration, September, 1977.

(j) Flood insurance study, village of Suttons Bay, Michigan, Leelanau county, U.S. department of housing and urban development, federal insurance administration, December, 1976.

The documents listed above are available in limited quantity from the local unit of government involved, from the Federal Insurance Administration, U.S. Department of Housing and Urban Development, Washington, D.C. 20410, or from the Michigan Department of Natural Resources, Division of Land Resource Programs, P.O. Box 30028, Lansing, Michigan 48909.

(2) The department may designate additional flood risk areas which are located within the 100-year floodplain of a Great Lake or a connecting waterway. The following information and studies may be used in delineating the flood risk areas:

(a) Current floodplain information reports by the U.S. army, corps of engineers.

(b) Report on Great Lakes open-coast flood levels by the U.S. army, corps of engineers.

(c) Current flood hazard analysis studies by the U.S. department of housing and urban development, federal insurance administration.

(d) Current flood hazard analysis studies by the U.S. soil conservation service.

(e) Engineering studies currently acceptable to the department.

(3) If the studies listed in subrule (2) of this rule are used to determine the flood risk area, the following procedures for designation shall be used:

(a) Prior to designation of a flood risk area, the department shall mail predesignation letters to the affected landowners of record as shown in the last assessment role. The letter shall explain that the property is being considered for designation as a flood risk area. The department shall schedule a meeting prior to designation to explain the proposed designation to property owners and local governmental agencies.

(b) The department shall designate a flood risk area upon its findings that the property lies within the 100-year floodplain of a Great Lake or a connecting waterway.

(c) In designating a flood risk area, the department shall notify the landowner of record and the local governmental agency affected thereby. The notice of designation shall be delivered personally or sent by certified mail to the landowner of record at the address given in the last assessment roll.

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(d) The notice of designation to affected landowners and local governmental agencies shall include all of the following information:

(i) The authority and reasons for designation of flood risk areas.

(ii) A description, graphic or otherwise, of the limits of the flood risk area.

(iii) An explanation of any regulatory measures which may be required in the flood risk area and the regulatory role of the local governmental agency.

(iv) The procedure by which the designation may be appealed.

(4) The department shall consider additional flood risk areas as may be proposed by local governmental agencies, citizens, or interested groups.

(5) In the absence of an approved local ordinance enacted pursuant to sections 7, 8, 9, and 10 of the act, a person or local governmental agency proposing a new permanent structure on a parcel, any portion of which is a designated flood risk area, shall submit to the department, for its approval, a permit application for the proposed new permanent structure. A new permanent structure in a subdivision for which approval is required pursuant to Act No. 288 of the Public Acts of 1967, as amended, being §560.101 et seq. of the Michigan Compiled Laws, and known as the subdivision control act of 1967, is exempt from the requirements of this rule. The permit application shall contain all of the following information:

(a) A legal description of the property.

(b) A description of the proposed permanent structure.

(c) A topographic map of the property in sufficient detail to allow review.

(d) The means to be undertaken to prevent property loss.

(e) The signature and address of the applicant.

(6) A permit application for a new permanent structure on a parcel, any portion of which is a designated flood risk area, shall be approved if it meets or exceeds the minimum requirements established in subrules (9) or (10), or both, of this rule.

(7) Not more than 60 days after receipt of a permit application, the department shall send by certified mail to the applicant a notice of its approval or disapproval. In case of disapproval, the reasons therefor shall be stated. A permit application which does not require a field investigation shall be processed within 20 days.

(8) Approval of a permit does not exempt the applicant from complying with other statutes, ordinances, or regulations.

(9) New residential structures in a flood risk area shall satisfy both of the following requirements:

(a) Have the lowest floor, including basement, not lower than the elevation defining the flood risk area.

(b) Have new or replacement sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, or have on-site waste disposal systems located to avoid impairment to them or contamination from them during flooding, or both.

(10) New nonresidential structures in a flood risk area shall have the lowest floor, including basement, not lower than the elevation defining the flood risk area, or together with attendant utility and sanitary facilities, be certified by a professional engineer or architect to be designed so that below the elevation defining the flood risk area, the structure is watertight and able to withstand hydrostatic pressures from a water level equal to the elevation defining the flood risk area.

(11) Any aggrieved party that contests the designation of a flood risk area under subrule (3) of this rule or the disapproval of a permit application shall be granted a hearing if a petition is filed with the department not more than 60 days after the notice of designation or notice of disapproval is sent. Such petition should be sent to the Director, Department of Natural Resources, P.O. Box 30028,

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Lansing, Michigan 48909. The hearing shall be conducted in accordance with the provisions for contested cases in Act No. 306 of the Public Acts of 1969, as amended, and in R 299.3071 to R 299.3081 of the Michigan Administrative Code.

(12) The landowner of record and the local governmental agency shall be sent a notice by certified mail if the flood risk area designation is removed.

(13) All flood risk area designations in existence at the effective date of these rules shall remain in full force and effect.

History: 1954 ACS 98, p. 58, Eff. Aug. 17, 1978.

R 281.26 Rescission.

Rule 6. R 281.1 to R 281.19 of the Michigan Administrative Code, appearing on pages 7129 to 7132 of the 1974 Annual Supplement to the Code and pages 6 to 8 of Quarterly Supplement No. 87 to the Code, are rescinded.

History: 1954 ACS 98, p. 60, Eff. Aug. 17, 1978.

BETSIE RIVER NATURAL RIVER ZONING

(By authority conferred on the commission of natural resources by section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws)

R 281.31 Definitions.

Rule 1. (1) "Applicant" means a person who requests on proper forms and via proper procedures, a zoning permit, special exception permit, or variance.

(2) "Appurtenance" means a structure incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and electrical service lines.

(3) "Building permit" means a permit issued by the appropriate governmental subdivision as presently required under provisions of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being §125.1501 et seq. of the Michigan Compiled Laws.

(4) "Building inspector" means the agency or individual appointed by the appropriate governmental subdivision to administer provisions of Act No. 230 of the Public Acts of 1972, including issuance of building permits.

(5) "Commission" means the natural resources commission.

(6) "Director" means the director of the department of natural resources.

(7) "Dwelling, single family" means a detached building, or portion thereof, which is used exclusively for residential purposes, and which is designed for or occupied exclusively by 1 family and containing housekeeping facilities.

(8) "Filtered view of the river" means maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, provide for streambank stabilization and erosion control, serve as an aid to infiltration of surface runoff, and provide cover to shade the water. It need not be so dense as to completely block the river view. It means no clear cutting.

(9) "Front" means that side of a lot abutting the water's edge of the mainstream or tributary.

(10) "Lot" means a parcel of land occupied or intended to be occupied by 1 single family dwelling and appurtenances incidental to it, including such open spaces as are arranged and designed to be used in connection with such buildings.

(11) "Natural river district" means the Betsie river natural river district as described in subrule (1) of R 281.33.

(12) "Parcel" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rent, or other conveyance.

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(13) "Reforestation" means renewal of vegetative cover by seeding, planting, or transplanting.

(14) "Setback" means the horizontal distance between any portion of a structure and the water's edge, measured at its closest point.

(15) "Soil erosion and sedimentation control enforcement agency" means the local agency appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, being §282.101 et seq. of the Michigan Compiled Laws.

(16) "Structure" means anything constructed, erected, or to be moved to or from any premise which is permanently located above, on or below the ground, including signs and billboards.

(17) "Zoning administrator" means the administrator of these zoning rules appointed by the natural resources commission.

(18) "Zoning permit" means a standard form issued by the zoning administrator upon application and declaration by the owner or his duly authorized agent approving proposed construction and use of land and buildings and structures thereon.

(19) "Zoning review board" means a group of 3 or more persons appointed by the commission to act upon requests for special exceptions.

History: 1954 ACS 91, p. 17, Eff. June 14, 1977.

R 281.32 Purpose.

Rule 2. It is the purpose of these rules:

(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damages due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect the free flowing conditions, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Betsie river and adjoining land.

(c) To prevent flood damages due to interference with natural floodplain characteristics by excluding developments which are vulnerable to flood damages, and which may reduce the capacity of the floodway of the river to withstand flooding conditions.

(d) To provide for residential and other permitted uses that complement the natural characteristics of the natural river system.

(e) To protect individuals from buying or developing lands which are unsuited for building purposes.

History: 1954 ACS 91, p. 18, Eff. June 14, 1977.

R 281.33 Boundaries; display and filing of zoning map; effect of zoning rules.

Rule 3. (1) The Betsie river natural river district is that area comprising:

(a) The Betsie river from Grass Lake dam in section 2, T25N, R13W in Benzie county to its mouth at Betsie lake in section 35, T26N, R16W, including Thompsonville pond.

(b) The Little Betsie river from its headwaters in section 24, T25N, R13W in Benzie county to its confluence with the Betsie river in section 25, T25N, R14W.

(c) Dair creek from its headwaters in section 15, T25N, R14W, to its confluence with the Betsie river in section 19, T25N, R14W.

(d) The lands lying within 400 feet of the edge of the waters enumerated in subdivisions (a), (b), and (c).

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(2) Certified copies of the Betsie river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies will be provided to local offices in the Betsie river area, including: county register of deeds, zoning administrator of these rules, local planning and zoning officials, township and county clerks, local building inspector, local soil erosion and sedimentation control enforcement agencies, and soil conservation service.

(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that where these rules impose greater restrictions than found on such easements, covenants or deeds, the provisions of these rules shall prevail.

(4) These zoning rules do not permit actions prohibited by other statutes or ordinances, including zoning ordinances, applicable to the natural river district, therefore:

(a) All earth changing activities, other than normal landscaping or maintenance, undertaken within 500 feet of a lake or stream, shall be conducted in accordance with an appointed soil erosion and sedimentation control plan and permit issued by the local soil erosion and sedimentation control enforcement agency.

(b) All development and land uses in the Betsie river natural river district are subject to provisions of appropriate local health codes and building codes, including requirements for permits and approvals.

History: 1954 ACS 91, p. 18, Eff. June 14, 1977.

R 281.34 Permitted uses.

Rule 4. The following uses shall be permitted by the owner upon the owner's property within the natural river district, subject to limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:

(a) One single-family dwelling and appurtenances on a lot at least 200 front feet wide, subject to the following limitations:

(i) On the Betsie river mainstream, setback shall be at least 200 feet from the water's edge, except that for every foot of vertical river bank elevation greater than 5 feet above the normal water level, the building setback may be moved 5 feet closer to the edge of the river ridge or escarpment until a minimum of 150 feet is reached.

(ii) On the Little Betsie river and Dair creek, setback shall be at least 100 feet from the water's edge.

(b) Plats, if the minimum setback and lot width requirements specified in subdivision (a) are met.

(c) Camping and other recreational activities outside of the natural vegetation strip, if structures are set back at least 200 feet from the water's edge on the Betsie river mainstream, and at least 100 feet from the water's edge on the Little Betsie river and Dair creek.

(d) Operation of watercraft subject to limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, being §281.1001 et seq. of the Michigan Compiled Laws.

(e) Fishing and hunting in compliance with current laws and regulations.

(f) Reforestation.

(g) Normal agricultural activities, if those activities meet the requirements of these rules, and if the bureau of environmental protection of the department of natural resources determines that the activities do not contribute to stream degradation.

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(h) Operation of licensed motor vehicles on dedicated public roads or access roads to private single-family dwellings.

(i) Private foot paths constructed by the landowner of natural materials to facilitate permitted uses.

(j) Private boat docks not to exceed 4 feet in width nor more than 20 feet in length, with not more than 4 feet of the dock extending over the water, if constructed of natural materials and camouflaged into the natural surroundings.

(k) Mining and extractive industries more than 300 feet from the water's edge, if constructed and operated pursuant to applicable laws and rules of the state.

(l) Underground gas and utility lines to private single-family dwellings originating from the landward side of the dwelling.

(m) Surface gas and utility lines on lands or interests in real property continuously owned by a utility from and after January 1, 1971, subject to review and approval by the commission.

(n) Disposal fields and septic tanks in conformance with local county health codes and the provisions of these rules.

(o) Cutting and filling of the land surface, unless the high ground water table is within 6 feet of the land surface, if the cutting and filling meets all the requirements of Act No. 347 of the Public Acts of 1972, being §282.101 et seq. of the Michigan Compiled Laws, and approval is granted by the local soil erosion and sedimentation control enforcement agency.

(p) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.36 and R 281.37.

History: 1954 ACS 91, p. 19, Eff. June 14, 1977.

R 281.35 Natural vegetation strip.

Rule 5. A strip 50 feet wide on each side of, and parallel to, the Betsie river mainstream, the Little Betsie river, and Dair creek shall be maintained in trees and shrubs or in its natural state, except that dead, diseased, unsafe, or fallen trees, as well as noxious plants may be removed, and trees and shrubs, upon approval of the area forester, may be selectively pruned or removed for landscaping purposes or to provide a filtered view of the river.

History: 1954 ACS 91, p. 20, Eff. June 14, 1977.

R 281.36 Special exception permits.

Rule 6. (1) Special exception permits may be granted to allow a use in the natural river district that is not specifically permitted by R 281.34, where implementation of that use does not contravene the purposes of these rules as specified in R 281.32.

(2) Application for a special exception permit shall be made on a form provided by the zoning administrator.

(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time prior to rendering a decision thereon, shall require the applicant to furnish any of the following information as is deemed necessary by the zoning review board for determining the suitability of the particular site for the proposed use:

(a) A detailed description of the proposed activity or use.

(b) A plan (surface view) showing elevations or contours of the ground, including existing earth fills; generalized vegetative cover; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, access roads, water supply and sanitary facilities.

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(c) Photographs showing existing land uses and vegetation upstream and downstream from the proposed use.

(d) Valley cross sections showing the natural stream channel, streambanks and high water marks, if any, with indications of locations of proposed developments.

(e) Any other information deemed relevant by the zoning administrator, and necessary to carry out the intent and provisions of these rules.

(4) Before considering applications, the zoning review board shall give notice by certified mail to all property owners within 500 feet of the proposed use as shown on the current tax assessment rolls, and to local officials and department of natural resources personnel, including: township supervisor, township building inspector, county health officer, local soil erosion and sedimentation control enforcement agency, county and township planning and zoning officials, soil conservation service, and regional office and natural rivers section of the department of natural resources.

(5) In review of an application, the zoning review board shall consider all relevant factors specified in these rules in the light of the spirit and intent of the purposes specified in R 281.32.

(6) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 15 days from receiving the application, except that, where public hearings are held or additional information is required pursuant to subrule (3), it shall render a decision within 15 days following the hearings or receipt of the last requested information.

(7) The zoning review board shall attach such conditions to the granting of a special exception as are necessary to further the purposes of these rules.

(8) A special exception use shall adhere strictly to the terms of the special exception permit or such permit may be revoked by the zoning administrator.

History: 1954 ACS 91, p. 20, Eff. June 14, 1977.

R 281.37 Nonconforming uses.

Rule 7. (1) The lawful use of any land or structure existing at the effective date of these rules may be continued, although the use does not conform with these rules.

(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted.

(3) The granting of a special exception permit is required for the restoration of a nonconforming building or structure damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for restoration of a nonconforming building or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:

(a) The land upon which it is situated is not subject to flooding.

(b) Continued use of a nonconforming building or structure would not lead to accelerated bank erosion or other material degradation of the river resource, and approval is granted by the local soil erosion and sedimentation control enforcement agency.

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(c) The continued use conforms with local county health codes and approval is granted by the local county health department.

(d) The continued use conforms with local building codes and approval is granted by the local building inspector.

(e) Restoration of a damaged building or structure approved by the zoning review board shall be started within 1 year from the time of damage.

(4) A nonconforming use may be changed to a use of a like or similar character, provided the new use conforms more closely to the rules of the natural river district.

(5) A nonconforming use of any land or structure may not hereinafter be enlarged or extended without the granting of a special exception permit upon consideration of the factors outlined below in subdivisions (a), (b), (c), (d), and (e) of subrule (3). An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation providing overnight facilities not exceeding 12 units may be approved by the zoning review board when the owner submits to the zoning review board a detailed description of the proposed enlargement or extension together with a site plan showing the location of all new structures or uses, and upon a determination that all of the following conditions exist:

(a) The land upon which it is situated is not subject to flooding.

(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and approval is granted by the appropriate local soil erosion and sedimentation control enforcement agency.

(c) The enlarged or extended use conforms with local county health codes and approval is granted by the local county health department.

(d) The enlarged or extended use conforms with local building codes and approval is granted by the local building administrator.

(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.32.

(6) Substitution of nonconforming structures with new structures may be made, but the granting of a special exception permit upon consideration of the factors outlined in subrule (5) is required to ensure that the changed uses conform as closely as possible to the purposes of these rules as specified in R 281.32.

(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.

(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property which certification shall be granted where a use meets the criteria of this rule and the common law criteria of nonconforming uses of the state.

History: 1954 ACS 91, p. 21, Eff. June 14, 1977.

R 281.38 Hearing; variances.

Rule 8. (1) An applicant who is denied a zoning permit or a special exception permit shall have a hearing pursuant to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, being §§24.271 to 24.287 of the Michigan Compiled Laws, upon petition thereof filed with the director within 30 days of the denial.

(2) Upon receipt of a petition for a hearing, the director shall set a date for a hearing on the facts and proposed action, and shall appoint a hearing officer to preside at the hearing. The proposed hearing shall be scheduled not more than 8 weeks after receipt of the petition. The hearing officer shall hear the evidence and

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prepare a record of the proceedings and a proposal for a decision, including findings of fact and conclusions of law.

(3) The hearing officer shall give notice of the hearing by certified mail to the persons named in subrule (4) of R 281.36 at least 30 days prior to the hearing.

(4) The record of the proceedings and proposal for decision shall be transmitted to the commission and shall be served by certified mail on all other parties to the proceedings not more than 30 days after completion of the testimony.

(5) A final decision or order of the commission in a contested case shall be made not more than 60 days after the date of the hearing, and a copy of the decision or order shall be delivered or mailed forthwith to each party and to that party's attorney.

(6) The commission shall prepare an official record of hearing pursuant to section 86 of Act No. 306 of the Public Acts of 1969, being §24.286 of the Michigan Compiled Laws.

(7) The final decision or order of the commission after a hearing is conclusive unless reviewed in accordance with section 87 or sections 101 to 106 of Act No. 306 of the Public Acts of 1969, being §§24.287 and 24.301 to 24.306 of the Michigan Compiled Laws.

(8) In determining a final decision in a contested case, the commission shall consider:

(a) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact and a description of the title history shall be included in the hearing evidence.

(b) Increase in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences and other factors relevant within the terms of these rules.

(c) Cumulative effect upon the natural river district from potential development of holdings in a legal position similar to the applicant's, if variances are requested and granted for these properties.

(d) Reasonable alternatives available to the applicant.

(e) All other factors relevant to the purposes and provisions of these rules.

(9) In weighing the application for a variance, considerations of public health, safety, and welfare shall prevail, unless private injury is proved by substantial preponderance of the evidence to be so great as to override the public interest.

(10) A variance shall not be granted where the commission determines that the requested use poses substantial hazard to life or property rights either public or private.

(11) Where, by reason of the narrowness, shallowness, or shape of a lot or property at the effective date of these rules, the lot or property cannot accommodate a building because of the required building setback, variances shall be allowed only upon a consideration of the factors prescribed in subrule (8) of this rule. Such variance shall provide that the structures shall be so placed as to best meet the spirit and objectives of the natural rivers act, Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 91, p. 22, Eff. June 14, 1977.

R 281.39 Zoning administrator and zoning review board; appointment and duties.

Rule 9. (1) The commission shall appoint a zoning administrator and a zoning review board to act as its agent to enforce these rules, including the receiving and processing of applications for zoning permits, special exception permits, petitions

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for variances, requests for changes, amendments or supplements, as outlined in these rules, or other matters the commission is required to decide.

(2) A person shall not commence excavation, erection, alteration, or repair for a building or structure, or commence a land use, until an application for a zoning permit has been secured from the zoning administrator. Alterations and ordinary maintenance made on dwellings which do not change the character of the structure or land use, and where the total cost does not exceed 5% of the market value of the structure in any 12-month period, are exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.

(3) Application for a zoning permit shall be filed in writing with the zoning administrator. There shall be submitted with all applications for zoning permits:

(a) Two copies of a site plan giving accurate dimensions on either a scale drawing or a rough sketch and containing the following information:

(i) Location upon the lot of all existing and proposed structures.

(ii) Existing or intended use of the structure.

(iii) Generalized vegetative cover.

(iv) Lines and dimensions of the lot to be used.

(b) Evidence of ownership of all property affected by the coverage of the permit.

(c) Evidence that all required federal, state, county, and township licenses or permits have been acquired or that applications have been filed for the licenses or permits.

(d) Other information as may be required by the zoning administrator, and necessary to carry out the intent and provisions of these rules.

(4) One copy of both plans and specifications shall be filed and retained by the zoning administrator, and the other shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection and issued the zoning permit. To insure that new land uses in the natural river district are in conformance with these rules, the applicant shall display a permit required by these rules face out within 24 hours of its issuance by placing it in a conspicuous place facing the nearest street or roadway and displaying it continuously until the purpose for which the permit was issued is completed. Failure to obtain and display a permit is a violation of these rules and shall subject a person for whose benefit the permit is required to court action.

History: 1954 ACS 91, p. 22, Eff. June 14, 1977.

R 281.40 Violations.

Rule 10. (1) Buildings erected, razed, altered, moved, or converted, or a use of land or premises, in violation of these rules are declared to be a nuisance.

(2) An alleged violation shall be inspected by the zoning administrator who shall order the applicant, in writing, to correct all conditions found to be in violation of these rules.

(3) Violations of these rules shall be resolved by the appropriate circuit court in accordance with section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws.

History: 1954 ACS 91, p. 23, Eff. June 14, 1977.

R 281.41 Changes, amendments, and supplements to boundaries and permitted uses.

Rule 11. (1) Changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner may be

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granted where implementation of the change does not contravene the purposes of these rules as specified in R 281.32.

(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held in accordance with, and subject to, sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as prescribed in subrules (2) to (10) of R 281.38.

History: 1954 ACS 91, p. 23, Eff. June 14, 1977.

JORDAN RIVER NATURAL RIVER ZONING

(By authority conferred on the commission of natural resources by section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws)

R 281.51 Definitions.

Rule 1. (1) "Applicant" means a person who requests on proper forms and via proper procedures, a zoning permit, special exception permit or variance.

(2) "Appurtenance" means a structure incidental to a dwelling including, but not limited to, garages, pump houses, wells, sanitary facilities and electrical service lines.

(3) "Commission" means the natural resources commission.

(4) "Director" means the director of the department of natural resources.

(5) "Dwelling" means a building, or portion thereof, which is designed or used exclusively for residential purposes.

(6) "Dwelling, single family" means a detached building designed for or occupied exclusively by 1 family and containing housekeeping facilities.

(7) "Front" means that side of a lot abutting the water's edge of the mainstream or tributary.

(8) "Lot" means a parcel of land occupied or intended to be occupied by 1 dwelling and appurtenances incidental to it, including such open spaces as are arranged and designed to be used in connection with such buildings.

(9) "Natural river district" means the Jordan river natural river district as described in subrule (1) of R 281.53.

(10) "Reforestation" means renewal of vegetative cover by seeding, planting, or transplanting.

(11) "Setback" means the horizontal distance between any portion of a structure and the water's edge, measured at its closest point.

(12) "Structure" means anything constructed, erected or to be moved to or from any premise which is permanently located above, on or below the ground including signs and billboards.

(13) "Zoning administrator" means the administrator of these zoning rules appointed by the natural resources commission.

(14) "Zoning permit" means a standard form issued by the zoning administrator upon application and declaration by the owner or his duly authorized agent approving proposed construction and use of land and buildings and structures thereon.

(15) "Zoning review board" means a group of 3 or more persons appointed by the commission to act upon requests for special exceptions.

History: 1954 ACS 81, p. 18, Eff. Sept. 27, 1974.

R 281.52 Purpose.

Rule 2. It is the purpose of these rules:

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(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damages due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect the free flowing conditions, fish and wildlife resources, water quality, scenic and aesthetic qualities and historical and recreational values of the Jordan river and adjoining land.

(c) To prevent flood damages due to interference with natural flood plain characteristics by excluding developments which are vulnerable to flood damages.

(d) To provide for residential and other permitted development that will complement the natural characteristics of the natural river system.

History: 1954 ACS 81, p. 19, Eff. Sept. 27, 1974.

R 281.53 Boundaries; map; abrogation and other restrictions.

Rule 3. (1) The Jordan river natural river district is that area comprising the Jordan river and its tributaries from its source in section 22, T31N, R5W in Antrim county to Roger's bridge in section 35, T32N, R7W in Charlevoix county and all lands lying within 400 feet of the river's edge.

(2) Certified copies of the Jordan river natural river zoning map shall be displayed in the office of the county register of deeds and in the office of the zoning administrator and shall be filed with the local tax assessing officer and with the state tax commission.

(3) These zoning rules do not repeal, abrogate, or impair any existing easements, convenants, or deed restrictions, nor permit actions prohibited by other statutes or ordinances, including zoning ordinances, applicable to the Jordan river natural river district, except that where these rules impose greater restrictions than found on such easements, convenants, or deeds, the provisions of these rules shall prevail.

History: 1954 ACS 81, p. 19, Eff. Sept. 27, 1974.

R 281.54 Permitted uses.

Rule 4. The following uses shall be permitted by the owner upon his property within the natural river district, subject to limitations and requirements outlined in these zoning rules, local ordinances and other applicable statutes:

(a) One single family dwelling and appurtenances set back at least 200 feet from the water's edge on a lot at least 150 front feet wide along the mainstream and set back 100 feet with minimum lot width of 150 front feet on the tributaries.

(b) Plats if the minimum setback and lot width requirements in subdivision (a) are met.

(c) Camping and other recreational activities which do not require the construction of permanent facilities.

(d) Operation of watercraft subject to limitations of local ordinances established under authority of Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws.

(e) Fishing and hunting in compliance with current laws and regulations.

(f) Reforestation.

(g) Normal agricultural activities, if such activities meet the provisions of these rules and the bureau of water management of the department of natural resources determines that such activities do not contribute to stream degradation.

(h) Operation of licensed motor vehicles on dedicated public roads or access roads to private dwellings.

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(i) Private foot paths constructed by the landowner of natural materials to facilitate permitted uses.

(j) Private boat docks constructed by the landowner of natural materials and camouflaged into natural surroundings.

(k) Mining and extractive industries beyond 300 feet from the water's edge.

(l) Underground gas and utility lines.

(m) Surface gas and utility lines on lands, or interests in real property continuously owned by the utility from and after January 1, 1971 subject to review and approval by the commission.

(n) Disposal fields and septic tanks in conformance with local county health codes.

(o) Cutting and filling of the land surface except where the high ground water table is within 6 feet of the land surface.

(p) Other uses which are granted permits by the zoning administrator according to R 281.56 and R 281.59.

History: 1954 ACS 81, p. 19, Eff. Sept. 27, 1974.

R 281.55 Natural vegetation strip.

Rule 5. A strip 100 feet wide on each side of and parallel to the mainstream and 25 feet wide on the tributaries shall be maintained in trees and shrubs or in its natural state, except that dead, diseased, unsafe, or fallen trees may be removed and trees and shrubs, upon approval of the area forester, may be selectively pruned or removed for landscaping purposes or to provide a filtered view of the river.

History: 1954 ACS 81, p. 20, Eff. Sept. 27, 1974.

R 281.56 Special exception permits.

Rule 6. (1) Special exception permits may be granted to allow uses in the natural river district that are not specifically permitted by R 281.54 where implementation of such uses does not contravene the purposes of these rules as specified in R 281.52.

(2) Application for special exception permits shall be made on forms provided by the zoning administrator.

(3) Upon receiving an application for a special exception permit, the zoning review board at any time prior to rendering a decision thereon shall require the applicant to furnish such of the following information as is deemed necessary by the zoning review board for determining the suitability of the particular site for the proposed use:

(a) A detailed description of the proposed activity or use.

(b) A plan (surface view) showing elevations or contours of the ground, including existing earth fills; generalized vegetative cover map; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, access roads, water supply and sanitary facilities.

(c) Photographs showing existing land uses and vegetation as seen upstream and downstream from the proposed use.

(d) Valley cross sections showing the natural stream channel, streambanks, and high water marks, if any, with indication of locations of proposed developments.

(e) Any other information deemed relevant by the zoning administrator.

(4) Before considering applications, the zoning review board shall give notice by certified mail to all property owners within 500 feet of the proposed use, and to local officials and department of natural resources personnel, including but not limited to: township supervisor, county health officials, county and township

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zoning officials, soil conservation service, and regional office and natural rivers section of the department of natural resources.

(5) In passing upon applications, the zoning review board shall consider all relevant factors specified in these rules, in the light of the spirit and intent of the purposes as specified in R 281.52.

(6) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 15 days from receiving the application, except that, where public hearings are held or additional information is required pursuant to subrule (3), it shall render a decision within 15 days of the end of hearings or receipt of the last requested information.

(7) The zoning review board shall attach such conditions to the granting of special exceptions as are necessary to further the purposes of these rules.

(8) A special exception use shall adhere strictly to the terms of the special exception permit.

History: 1954 ACS 81, p. 20, Eff. Sept. 27, 1974.

R 281.57 Nonconforming uses.

Rule 7. (1) The lawful use of any land or structure existing at the effective date of these rules may be continued, although the use does not conform with these rules.

(2) Repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition may be made. Remodeling of nonconforming structures within the confines of the existing foundation and elevations shall be permitted.

(3) A special exception permit shall be granted by the zoning review board when a nonconforming building or structure is damaged or destroyed by fire, flood, or other means, and it may be restored if restoration is started within 1 year from the time of damage. Where there are several buildings or structures which are used together by the landowner as a single operating unit, the value of the part destroyed shall be compared to the value of the total operating unit in determining whether 50% of the value has been destroyed. A nonconforming building or structure damaged by more than 50% of its value may be reconstructed or repaired only if all of the following conditions exist:

(a) The land upon which it is situated is not subject to flooding.

(b) Continued use of a nonconforming building or structure would not lead to bank erosion or other material degradation of the river resource.

(c) The continued use conforms with local county health codes and approval is granted by the local county health department.

(4) The use of a nonconforming structure or land may be changed to a use of a like or similar character, or to a use conforming to the rules of the natural river district.

(5) A nonconforming use of any land or structure may not hereinafter be enlarged or extended without the granting of a special exception permit as provided in subrule (3).

(6) An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation providing overnight facilities not exceeding 12 units may be approved by the zoning review board when the owner submits to the zoning review board a detailed description of the proposed enlargement or extension together with a site plan showing the location of all new structures or uses, and upon a determination that all of the following conditions exist:

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(a) The land upon which it is situated is not subject to flooding.

(b) The enlargement or extension of the nonconforming use would not lead to bank erosion or other material degradation of the river resource.

(c) The enlargement or extended use conforms with local county health codes and approval is granted by local county health department.

(d) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.52.

(7) Substitution of nonconforming structures with new structures may be made, but the granting of a special exception permit is required to ensure that the changed uses will conform as closely as possible to the purposes of these rules as specified in R 281.52.

(8) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.

(9) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on his property, which certification shall be granted where a use meets the criteria of this rule and the common law criteria of nonconforming uses of the state.

History: 1954 ACS 81, p. 20, Eff. Sept. 27, 1974.

R 281.58 Variances.

Rule 8. (1) An applicant who is denied a zoning permit or a special exception permit shall have a hearing held in accordance with and subject to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, being §§24.271 to 24.287 of the Michigan Compiled Laws, upon petition thereof filed with the director within 30 days of such denial.

(2) Upon receipt of a petition for a hearing, the director shall set a date for a hearing on the facts and proposed action, and shall appoint a hearing officer to preside at the hearing. The proposed hearing shall be scheduled not more than 4 weeks after receipt of the petition. The hearing officer shall hear the evidence, prepare a record of the proceedings and a proposal for a decision including findings of fact and conclusions of law.

(3) The hearing officer shall give notice of the hearing by certified mail to the persons named in subrule (4) of R 281.56.

(4) The record of the proceedings and proposal for decision shall be transmitted to the commission and shall be served by certified mail on all other parties to the proceedings not more than 3 weeks after completion of the testimony.

(5) A final decision or order of the commission in a contested case shall be made not more than 8 weeks after the date of the hearing and a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney.

(6) The commission shall prepare an official record of hearing in accordance with section 86 of Act No. 306 of the Public Acts of 1969.

(7) The final decision or order of the commission after a hearing is conclusive unless reviewed in accordance with section 87 or sections 101 to 106 of Act No. 306 of the Public Acts of 1969, being §§24.287 or 24.301 to 24.306 of the Michigan Compiled Laws.

(8) In determining a final decision in a contested case, the commission shall consider:

(a) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact and a description of the title history shall be included in the hearing evidence.

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(b) Increase in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences and other factors relevant within the terms of these rules.

(c) Cumulative effect upon the natural river district from potential development of holdings in a legal position similar to the applicant's, if variances are requested and granted for these properties.

(d) Reasonable alternatives available to the applicant.

(e) All other factors relevant to the purposes and provisions of these rules.

(9) In weighing the application for a variance, considerations of public health, safety and welfare shall prevail, unless private injury is proved by substantial preponderance of the evidence to be so great as to override the public interest.

(10) A variance shall not be granted where the commission determines that the requested use will pose substantial hazard to life or property rights either public or private.

(11) Where by reason of the narrowness, shallowness or shape of a lot or property at the effective date of these rules, the lot or property cannot accommodate a building because of the required building setback, variances shall be allowed only upon a consideration of the factors prescribed in subrule (8). Such variances shall provide that the structures shall be so placed as to best meet the spirit and objectives of the natural rivers act.

History: 1954 ACS 81, p. 21, Eff. Sept. 27, 1974.

R 281.59 Administration.

Rule 9. (1) The commission shall appoint a zoning administrator and a zoning review board to act as its agents to enforce these rules including the receiving and processing of applications for zoning permits, special exception permits, petitions for variances, requests for changes, amendments or supplements, as outlined in these rules, or other matters the commission is required to decide.

(2) A person shall not commence excavation, erection, alteration, or repair for any building or structure or commence a land use until an application for a zoning permit has been made, a site inspection has been completed and a zoning permit has been secured from the zoning administrator. Alterations and ordinary maintenance made on dwellings where total cost does not exceed 5% of the market value of the structure in any 12-month period are exempt.

(3) Application for a zoning permit shall be filed in writing with the zoning administrator. There shall be submitted with all applications for zoning permits:

(a) Two copies of a site plan giving accurate dimensions on either a scale drawing or a rough sketch and containing the following information:

(i) Location upon the lot of all existing and proposed structures.

(ii) Existing or intended use of the structures.

(iii) Generalized vegetative cover.

(iv) Lines and dimensions of the lot to be used.

(b) Evidence of ownership of all property affected by the coverage of the permit.

(c) Evidence that all required federal, state, and county licenses or permits have been acquired or that applications have been filed for the same.

(d) Other information as may be required by the zoning administrator.

(4) One copy of both plans and specifications shall be filed and retained by the zoning administrator and the other shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection and issued the zoning permit. To insure that new land uses in the natural river district are in conformance with these rules, the applicant shall display a permit

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required by these rules face out within 24 hours of its issuance by placing it in a conspicuous place facing the nearest street or roadway and displaying it continuously until the purpose for which issued is completed. Failure to obtain and display a permit is a violation of these rules and subjects each person for whose benefit the permit is required to court action.

History: 1954 ACS 81, p. 22, Eff. Sept. 27, 1974.

R 281.60 Enforcement.

Rule 10. (1) Buildings erected, razed, altered, moved, or converted or any use of land or premises in violation of these rules are declared to be a nuisance.

(2) Each alleged violation shall be inspected by the zoning administrator who shall order the applicant in writing to correct all conditions found to be in violation of these rules.

(3) Violations of these rules shall be resolved by the appropriate circuit court in accordance with section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws.

History: 1954 ACS 81, p. 23, Eff. Sept. 27, 1974.

R 281.61 Changes; amendments; supplements.

Rule 11. (1) Changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner may be granted where implementation of such changes does not contravene the purposes of these rules as specified in R 281.52.

(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held in accordance with and subject to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as prescribed in subrules (2) to (10) of R 281.58.

History: 1954 ACS 81, p. 23, Eff. Sept. 27, 1974.

WHITE RIVER NATURAL RIVER ZONING

(By authority conferred on the commission of natural resources by section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws)

R 281.71 Definitions.

Rule 1. As used in these rules:

(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit, special exception permit, or variance.

(b) "Appurtenance" means a structure incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and electrical service lines.

(c) "Bluff" means the top of a steep bank rising sharply from the water's edge of a river or stream.

(d) "Building permit" means a permit issued by the appropriate governmental subdivision as presently required under provisions of Act No. 230 of the Public Acts of 1972, being §125.101 et seq. of the Michigan Compiled Laws, and known as the state construction act of 1972.

(e) "Building inspector" means the agency or individual appointed by the appropriate governmental subdivision to administer provisions of Act No. 230 of the Public Acts of 1972, including issuance of building permits.

(f) "Commission" means the natural resources commission.

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(g) "Cutting edge of the river" means the outside edge of a river or stream where water velocity has increased to the point where it may cause soil or stream bank erosion.

(h) "Director" means the director of the department of natural resources.

(i) "Dwelling, single-family" means a detached building, or portion thereof, which is used exclusively for residential purposes, and which is designed for, or occupied exclusively by, 1 family and containing housekeeping facilities.

(j) "Family" means 1 or more persons occupying a single dwelling unit, all related by blood, legal adoption, or marriage, and not more than 3 other persons; or not more than 5 unrelated persons.

(k) "Filtered view of river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. It means no clear cutting.

(l) "Front" means that side of a lot abutting the water's edge of the mainstream or tributary.

(m) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental purposes, or other conveyance.

(n) "Natural river district" means the White river natural river district as described in subrule (1) of R 281.73.

(o) "Ordinary high-water mark" means the line between upland and bottomland which persists through successive changes in water level, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

(p) "River's edge" means the ordinary high water mark as used in Act No. 346 of the Public Acts of 1972 and defined in R 281.71(o).

(q) "Reforestation" means renewal of vegetative cover by seeding, planting, or transplanting.

(r) "Setback" means the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.

(s) "Soil erosion and sedimentation control enforcement agency" means the local agency appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, being §282.101 et seq. of the Michigan Compiled Laws.

(t) "Structure" means anything constructed, erected, or to be moved to or from any premise which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes. A temporary recreational facility, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered a structure.

(u) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.

(v) "Zoning permit" means a standard form issued by the zoning administrator, the issuance of which is conditioned upon a determination that the application and declaration by the owner, or his duly authorized agent, stating that the proposed construction and use of land and buildings and structures thereon, is in compliance with all provisions of these rules.

(w) "Zoning review board" means a group of 5 people, including 4 local representatives and 1 department of natural resources representative, appointed by the commission to act upon requests for special exceptions.

History: 1954 ACS 99, p. 25, Eff. May 8, 1979.

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R 281.72 Purpose.

Rule 2. The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, and in the absence of local zoning to protect the White river, a designated natural river, promulgates these zoning rules whose purposes are:

(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damages due to unwise development patterns within the natural river district and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect the free flowing conditions, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the White river and adjoining land.

(c) To prevent flood damages due to interference with natural flood plain characteristics by excluding developments which are vulnerable to flood damages, and which may reduce the capacity of the floodway of the river to withstand flooding conditions.

(d) To provide for residential and other compatible permitted uses that complement the natural characteristics of the natural river system.

(e) To protect individuals from buying or developing lands which are unsuited for building purposes.

History: 1954 ACS 99, p. 26, Eff. May 8, 1979.

R 281.73 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules.

Rule 3. (1) The boundaries of the White river natural river district shall be as hereinafter described and as depicted on the certified White river natural river zoning map. The White river natural river district comprises that area described as follows:

(a) The mainstream of the White river from 8-Mile road, NW corner of section 28, T15N, R12W in Newaygo county downstream to US-31, Muskegon county, excluding the following: from the north city limit of White Cloud down to old M-20 west of the city, from the east city limit of Hesperia down to the west city limit and those portions within the city limits of Whitehall and Montague.

(b) Mullen creek from 6-Mile road downstream to White river.

(c) Five mile creek from Pine avenue downstream to White river.

(d) Flinton creek from Pine avenue downstream to Catalpa avenue.

(e) Wrights creek from Comstock road downstream to White river.

(f) Mena creek from Minnie lake dam downstream to White river.

(g) Martin creek from Warner avenue in section 2, T14N, R13W, downstream to White river.

(h) East branch Heald creek from Croswell road downstream to Martin creek.

(i) Braton creek from Wilkie road downstream to White river.

(j) Cushman creek from 192nd avenue downstream to White river.

(k) Skeels creek from 192nd avenue (Holton Duck Lake road) downstream to White river.

(l) North branch White river from 197th avenue downstream to White river.

(m) Robinson creek from Woodrow road downstream to North branch.

(n) Swinton and Osborn (Cobmoosa) creek from Filmore road downstream to North branch.

(o) Newman creek from 132nd avenue downstream to North branch.

(p) Knutson creek from Garfield road downstream to North branch.

(q) Sand creek from outlet of Dressler lake downstream to White river.

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(r) Carlton creek from Arthur road downstream to White river.

(s) Mud creek from outlet of Heitman lake downstream to Carlton creek.

(t) Carleton (Lanford) creek from Walsh road downstream to White river.

(u) Silver creek from Silver creek road downstream to White river.

(v) Cleveland creek from Russell road downstream to White river.

(w) The lands lying within 300 feet of the river's edge enumerated in subdivisions (a) through (v).

(2) Certified copies of the White river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local offices in the White river area, including the following: county register of deeds; zoning administrator of these rules; local planning, zoning, and health officials; township and county clerks; local building inspector; local soil erosion and sedimentation control enforcement agencies; and the soil conservation service.

(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that where these rules impose greater restrictions than found on such easements, covenants, or deeds, the provisions of these rules shall prevail.

(4) These zoning rules do not permit actions prohibited by other statutes or ordinances, including zoning ordinances, applicable to the natural river district, therefor:

(a) All earth changing activities, other than normal landscaping or maintenance, undertaken within 500 feet of a lake or stream, are subject to provisions of Act No. 347 of the Public Acts of 1972, being §282.101 et seq. of the Michigan Compiled Laws.

(b) All dredge and fill activities and construction of permanent structures lying below the ordinary high water mark are subject to provisions of Act No. 346 of the Public Acts of 1972, being §281.951 et seq. of the Michigan Compiled Laws.

(c) All development and land uses in the White river natural river district are subject to provisions of appropriate local health codes and building codes, including requirements for permits and approvals.

(5) Where uncertainty exists with respect to the boundaries indicated on the White river natural river zoning map, the following rules shall apply:

(a) Boundaries indicated as approximately following streets or highways shall be construed to be the center lines of the streets or highways.

(b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

(c) Boundaries indicated as approximately following city, township, or county boundary lines shall be construed as following such city, township, or county boundary lines.

(d) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

(e) Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official White river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official White river natural river zoning map.

(f) Boundaries following the shoreline of a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.

History: 1954 ACS 99, p. 28, Eff. May 8, 1979.

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R 281.74 Zoning permits; application; additional requirements.

Rule 4. (1) A person shall not commence excavation, erection, alteration or repair for a building or structure, or commence a land use, until an application for a zoning permit has been secured from the zoning administrator. Alterations and ordinary maintenance made on dwellings which do not change the character of the structure or land use, and where the total cost does not exceed 5% of the market value of the structure in any 12-month period, are exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.

(2) Application for a zoning permit shall be filed in writing with the zoning administrator. There shall be submitted with all applications for zoning permits:

(a) Two copies of a site plan giving accurate dimensions on either a scale drawing or a rough sketch and containing the following information:

(i) Location upon the lot of all existing and proposed structures.

(ii) Existing or intended use of the structure.

(iii) Generalized vegetative cover.

(iv) Lines and dimensions of the lot to be used.

(b) Evidence of ownership of all property affected by the coverage of the permit.

(c) Evidence that all required federal, state, county, and township licenses or permits have been acquired or that applications have been filed for the licenses or permits.

(d) Other information as may be required by the zoning administrator, and necessary to carry out the intent and provisions of these rules.

(3) One copy of both plans and specifications shall be filed and retained by the zoning administrator, and the other shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection and issued the zoning permit. To insure that new land uses in the natural river district are in conformance with these rules, the applicant shall display a permit required by these rules face out within 24 hours of its issuance by placing it in a conspicuous place facing the nearest street or roadway and displaying it continuously until the purpose for which the permit was issued is completed. Failure to obtain and display a permit is a violation of these rules.

(4) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of time not to exceed 6 months. Any subsequent extensions must have the written approval of the zoning review board.

(5) Lots created after the effective date of these rules shall be of sufficient size to accommodate building setbacks and minimum lot widths as required by these rules.

History: 1954 ACS 99, p. 28, Eff. May 8, 1979.

R 281.75 Permitted uses.

Rule 5. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:

(a) Private camping and other recreational activities not requiring installation of permanent structures, outside of the natural vegetation strip.

(b) Operation of watercraft subject to limitations of local ordinances established under authority of Act No. 303 of the Public Acts of 1967, being §281.1001 et seq. of the Michigan Compiled Laws.

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(c) Fishing and hunting in compliance with existing laws and rules.

(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in this rule.

(e) Normal agricultural activities, if those activities meet the requirements of these rules, and when the bureau of environmental protection of the department of natural resources determines that such activities do not contribute to stream degradation.

(f) Operation of licensed motor vehicles on dedicated public roads or access roads to private single-family dwellings.

(g) Off road operation of emergency and public utility maintenance vehicles.

(h) Private foot paths constructed by the landowner of natural materials to facilitate permitted uses.

(2) The following uses are permitted upon approval of the zoning administrator:

(a) One single-family dwelling and appurtenances on a lot not less than 200 front feet wide, subject to the following limitations:

(i) On the designated portions of the mainstream from 8-Mile road, NW corner of section 28, T15N, R12W, Newaygo county downstream to Lutes bridge (Baldwin road) T14N, R13W, Newaygo county and from Podunk bridge between sections 9 and 10, T13N, R15W, Oceana county downstream to US-31 in Muskegon county, the setback shall be 150 feet from the ordinary high water mark, except that for every foot of bank height above a minimum of 7 feet above the ordinary high water mark, the new structures may be placed 5 feet closer to the river to a minimum of 100 feet.

(ii) On the designated portion of the mainstream from Lutes bridge (Baldwin road) downstream to Podunk bridge and on all designated tributaries, the setback shall be 100 feet from the ordinary high water mark, except that for every foot of bank height above a minimum of 7 feet above the ordinary high water mark, the new structures may be placed 5 feet closer to the river, to a minimum of 75 feet.

(iii) New structures shall not be closer than 50 feet from the top of the bluff on the cutting edges of the river and tributaries.

(iv) Setback shall be not less than 15 feet from side lot lines and not less than 25 feet from the right-of-way of a public road.

(v) New structures shall not be located on land that is subject to flooding.

(b) Plats, if the minimum setbacks and lot width requirements specified in subdivision (a) are met.

(c) Private boat docks not to exceed 4 feet in width or 20 feet in length, with not more than 4 feet of the dock extending over the water, if designed, constructed, and maintained with indigenous natural materials.

(d) Mining and extractive industries more than 300 feet from the ordinary high water mark, if constructed and operated pursuant to applicable laws and rules of this state and local ordinances.

(e) Utility lines to service private single-family dwellings.

(f) Surface gas and utility lines on lands, or interest in real property continuously owned by a utility from and after January 1, 1971, subject to review and approval by the commission.

(g) Disposal fields and septic tanks located not less than 100 feet from the river's edge and in conformance with local county health codes and these rules. In addition, a septic tank or absorption field shall not be closer than 50 feet to any subsurface drainage system emptying into the White river or designated tributaries.

(h) Cutting, dredging, and filling of the land surface, unless the high ground water table is within 6 feet of the land surface, if the activities meet all provisions

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of Act No. 347 of the Public Acts of 1972, and Act No. 346 of the Public Acts of 1972, being §282.101 et seq. and §281.951 et seq. of the Michigan Compiled Laws, and approval is granted by the local soil erosion and sedimentation control enforcement agency and the department.

(i) Signs and outdoor advertising devices shall be (A) related to permitted uses, (B) not more than 1 square foot in area for residential uses and not more than 4 square feet in area for any other uses, (C) not illuminated by any neon light or flashing device, and (D) not attached to any tree or shrub.

(j) Other uses for which an applicant is granted a permit by the zoning administrator according to R 281.77 and R 281.79.

History: 1954 ACS 99, p. 28, Eff. May 8, 1979.

R 281.76 Natural vegetation strip.

Rule 6. A restricted cutting belt 50 feet wide on each side of the stream shall be maintained on the White river mainstream and on designated tributaries. Trees and shrubs may be pruned for a filtered view of the river upon approval by the local zoning administrator or the area forester, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to the following provisions:

(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak may be removed.

(b) Selective removal or trimming of trees for timber harvest, landscaping, or public utility facilities is permitted upon approval of the area forester or local zoning administrator.

History: 1954 ACS 99, p. 30, Eff. May 8, 1979.

R 281.77 Special exception permits.

Rule 7. (1) Special exception permits may be granted to allow a use in the natural river district that is not specifically permitted by R 281.75, where implementation of that use does not contravene the purposes of these rules as specified in R 281.72.

(2) If there is insufficient lot size or physical limitations on a lot existing on the date these rules become effective, which preclude a proposed structure from meeting all setback requirements, the zoning review board in issuing a special exception permit shall ensure that structures are located to best meet the objectives and purposes of these rules and the natural river act of 1970.

(3) Application for a special exception permit shall be made on a form provided by the zoning administrator.

(4) Upon reviewing an application for a special exception permit, the zoning review board, at any time prior to rendering a decision thereon, shall require the applicant to furnish any of the following information as is deemed necessary by the zoning review board for determining the suitability of the particular site for the proposed use:

(a) A detailed description of the proposed activity or use.

(b) A surface view plan giving accurate dimensions on either a scale drawing or a rough sketch showing elevations or contours of the ground, including existing earth fills; generalized vegetative cover; size; location, and spatial arrangement of all proposed and existing structures on the site; and the location and elevations of streets, access roads, and water supply and sanitary facilities.

(c) Photographs showing existing land uses and vegetation upstream and downstream from the proposed use.

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(d) Valley cross sections showing the natural stream channel, streambanks, and high water marks, and flood marks, if known, with indication of locations of proposed developments.

(e) Any other information deemed relevant by the zoning administrator, and necessary to carry out the intent and provisions of these rules.

(5) Before considering applications, the zoning review board shall give notice by certified mail to all property owners and residents within 500 feet of the proposed use as shown on the current tax assessment rolls, and to local officials and department of natural resources personnel, including: township supervisor, township building inspector, county health officer, local soil erosion and sedimentation control enforcement agency, county and township planning and zoning officials, soil conservation service, and regional office and natural rivers section of the department of natural resources, and to any other interested parties who request that they be notified of such requests in the natural river district.

(6) In reviewing an application, the zoning review board shall consider all of the following:

(a) All relevant factors specified in these rules in light of the spirit and intent of the purposes specified in R 281.72.

(b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding this fact and a description of the title history shall be included in the hearing evidence.

(c) Increase in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other factors relevant within the terms of these rules.

(d) Cumulative effect upon the natural river district from potential development of holdings in a legal position similar to the applicant's, if applicant's request is approved by the zoning review board.

(e) Reasonable alternatives available to the applicant.

(7) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail, unless private injury is proved by substantial preponderance of the evidence to be so great as to override the public interest.

(8) A requested use shall not be granted where the zoning review board determines that the requested use poses substantial hazard to life or property rights either public or private.

(9) Where, by reason of the narrowness, shallowness, or shape of a lot or property at the effective date of these rules, the lot or property cannot accommodate a building because of the required building setback, a requested use shall be allowed only upon a consideration of the factors prescribed in subrule (3) of R 281.78. Such approval by the zoning review board shall provide that the structures shall be so placed as to best meet the spirit and objectives of the natural river act, Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws.

(10) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after receiving the application; except that, where public hearings are held or additional information is required pursuant to subrule (4), it shall render a decision within 30 days following the hearings or upon receipt of the last requested information.

(11) The zoning review board shall attach such conditions to the granting of a special exception as are necessary to further the purposes of these rules.

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(12) A special exception use shall adhere strictly to the terms of the special exception permit or the permit may be revoked.

History: 1954 ACS 99, p. 30, Eff. May 8, 1979.

R 281.78 Nonconforming uses.

Rule 8. (1) The lawful use of any land or structure existing on the effective date of these rules may be continued although the use does not conform to these rules.

(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted, as long as the structure is neither enlarged nor extended and complies with the requirements of subrule (4) of R 281.77.

(3) The granting of a special exception permit is required for the restoration of a nonconforming building or structure damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for restoration of a nonconforming building or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:

(a) The land upon which it is situated is not subject to flooding.

(b) Continued use of a nonconforming building or structure would not lead to accelerated bank erosion or other material degradation of the river resource, and approval is granted by the local soil erosion and sedimentation control enforcement agency.

(c) The continued use conforms with local county health codes and approval is granted by the local county health department.

(d) The continued use conforms with local building codes and approval is granted by the local building inspector.

(e) Restoration of a damaged building or structure approved by the zoning review board shall be started within 1 year from the time of damage.

(4) A nonconforming use may be changed to a use of a like or similar character, provided the use conforms more closely to the rules of the natural river district.

(5) A nonconforming use of any land or structure may not hereinafter be enlarged or extended without the granting of a special exception permit upon consideration of the factors outlined in subrule (3) and subdivisions (a), (b), (c), (d), and (e) of this subrule. An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation providing overnight facilities not exceeding 12 units may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension together with a site plan showing the location of all new structures or uses, and upon a determination that all of the following conditions exist:

(a) The land upon which it is situated is not subject to flooding.

(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and approval is granted by the local soil erosion and sedimentation control enforcement agency.

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(c) The enlargement or extended use conforms with local county health codes and approval is granted by local county health department.

(d) The enlarged or extended use conforms with local building codes and approval is granted by local building inspector.

(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.72.

(6) Substitution of nonconforming structures with new conforming structures may be made, but the granting of a special exception permit upon consideration of the factors outlined in subrule (5) is required to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.72.

(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.

(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property, which certification shall be granted if a use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.

History: 1954 ACS 99, p. 31, Eff. May 8, 1979.

R 281.79 Appeals; contested cases.

Rule 9. Any aggrieved party which contests a decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after the designation letter or the notice of disapproval is received. The hearing shall be conducted in accordance with the provisions for contested cases in Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws and in R 299.3071 to R 299.3081 of the rules entitled "Department Organization and General Functions."

History: 1954 ACS 99, p. 32, Eff. May 8, 1979.

R 281.80 Zoning administrator and zoning review board; appointment and duties.

Rule 10. The commission shall appoint a zoning administrator and a zoning review board to act as its agent to enforce these rules, including the receiving and processing of applications for zoning permits, special exception permits, petitions for appeals, requests for changes, amendments, or supplements, inspection of sites and issuance or denial of zoning permits, as outlined in these rules, or other matters the commission is required to decide.

History: 1954 ACS 99, p. 32, Eff. May 8, 1979.

R 281.81 Violations.

Rule 11. (1) An alleged violation shall be inspected by the staff of the department and, if it is found that a violation exists, the department shall order the applicant, in writing, to correct conditions found to be in violation of these rules.

(2) Any construction or a use of land or premises, in violation of these rules may be subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws.

History: 1954 ACS 99, p. 32, Eff. May 8, 1979.

R 281.82 Changes, amendments, and supplements to boundaries and permitted uses.

Rule 12. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of govern-

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ment or by a landowner where implementation of the change does not contravene the purposes of these rules as specified in R 281.72.

(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to sections 71 to 87 of Act No. 306 of the Public Acts of 1969.

(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to the county register of deeds, the zoning administrator of these rules, local planning, zoning, and health officials, township and county clerks, the local building inspector, and local soil erosion and sedimentation control enforcement agencies, and the soil conservation service.

(4) Upon approval by the commission of a local zoning ordinance meeting all requirements of Act No. 231 of the Public Acts of 1970, and of either Act No. 183 of the Public Acts of 1943, as amended, being §§125.271 to 125.301 of the Michigan Compiled Laws, or Act No. 184 of the Public Acts of 1943, as amended, being §§125.201 to 125.232 of the Michigan Compiled Laws, whichever is applicable, the adopted local ordinance shall take precedence over these rules. Upon withdrawal of commission approval of a local zoning ordinance or if the local ordinance becomes inapplicable to the land area encompassed by the White river natural river district through court action or by any other reason, these rules shall apply.

History: 1954 ACS 99, p. 32, Eff. May 8, 1979.

NATURAL RESOURCES COMMISSION

UTILITIES AND PUBLICLY PROVIDED FACILITIES IN DESIGNATED NATURAL RIVER AREAS

(By authority conferred on the natural resources commission by section 15 of Act No. 231 of the Public Acts of 1970, being §281.775 of the Michigan Compiled Laws)

R 281.301 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws.

(b) "Adopted natural river plan" means the river management plan adopted by the commission at the time of designation.

(c) "Applicant" means a person, company, or unit of government applying for project approval pursuant to these rules.

(d) "Commission" means the natural resources commission.

(e) "Department" means the department of natural resources.

(f) "Electric transmission line" means those conductors which operate above 30 kv, their necessary supporting or containing structures located outside of buildings, and the right-of-way used for transmitting a supply of electric energy.

(g) "Natural river" means a river which has been designated by the commission for inclusion in the wild, scenic, and recreational rivers system.

(h) "Natural river area" means the river, its bed, banks, and all lands lying within 400 feet of the river's edge of the designated river.

(i) "Natural vegetation strip" means an area not more than 100 feet wide on either side of, and parallel to, the river, where native vegetation is maintained to enhance the natural character of the river.

(j) "Ordinary high-water mark" means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of

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the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake which has a level established by law, it means the high established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

(k) "Person" means any individual, partnership, corporation, association, political subdivision of the state, the department or other instrumentality or agency of the state, political subdivision thereof or other legal entity.

(l) "Pipeline" means any pipeline, including flow lines and transmission lines used to transport oil, gas, brine, sewage, or water, or conduits for electricity or communications from one facility to another, including the right-of-way within which such facilities are located.

(m) "Publicly provided facility" means a facility provided by a public agency, including a federal, state, county, township, municipality, or other agency.

(n) "River's edge" means ordinary high-water mark.

(o) "Road" means any right-of-way that is provided for public motorized traffic.

(p) "Utility" means any commercial entity which provides a public service, such as electric, communications, sewage, oil, gas, or water service.

History: 1954 ACS 101, p. 22, Eff. Dec. 14, 1979.

R 281.302 Plans; application for approval; approval or denial within 60 days; exception.

Rule 2. Plans for construction, enlargement, and site or route location of all utility pipelines and transmission lines, roads and road rights-of-way, publicly provided recreation facilities, access sites, and public water management projects within a natural river area shall be approved by the department. An application for the approval of such plans shall be submitted by the applicant, in writing, to the department. Approval or denial by the department shall be made within 60 days of receipt of the complete application, except where a public informational meeting is held pursuant to R 281.304(3).

History: 1954 ACS 101, p. 23, Eff. Dec. 14, 1979.

R 281.303 Application for approval; contents.

Rule 3. An application shall include all of the following:

(a) Plans showing the proposed project or right-of-way in relation to the natural river area, the adjacent shoreline property and existing land uses within 500 feet of the proposed project and existing structures, existing utilities, pipelines, roads, and contour information depicting the topography of the site.

(b) Plans showing prudent, feasible alternative routes or locations, and the reasons the route or site on the application was selected.

(c) The names and addresses of riverfront property owners within 500 feet of the proposed project as shown on the current tax assessment rolls.

(d) Other information which the department determines is necessary to complete an assessment of the proposed project.

History: 1954 ACS 101, p. 23, Eff. Dec. 14, 1979.

R 281.304 Notice of application; permit application; copies; pre-filing conference; public informational meeting.

Rule 4. (1) Within 10 days of the receipt of a completed application, the department shall give notice of the application to all riverfront property owners within 500 feet of the proposed use, as shown on the current tax assessment rolls,

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the respective clerks of the county and township in which the proposed use is to be located, the local soil erosion and sedimentation control enforcing agency, the local soil conservation district, and the local watershed council organized under either Act No. 253 of the Public Acts of 1964, being §323.301 et seq. of the Michigan Compiled Laws, or Act No. 200 of the Public Acts of 1957, being §123.631 et seq. of the Michigan Compiled Laws, if any.

(2) An applicant is encouraged to have a pre-filing conference with representatives of the department and other appropriate state and local officials prior to formal submission of their application.

(3) The department may hold a public informational meeting on an application, upon written request of the general public or of 1 of those persons listed in subrule (1), within 30 days of the department's receipt of the complete application, when a proposed project appears to be controversial, or where additional information is desired prior to action by the department. If the department determines a public informational meeting shall be held, it shall be scheduled within 60 days of the department's receipt of a complete application. The department shall make a determination within 30 days following the meeting. All notification requirements of subrule (1) also apply to public informational meetings.

(4) The department shall coordinate and take into consideration any responses or constructive suggestions offered by the general public and those agencies and persons identified in subrule (1).

History: 1954 ACS 101, p. 23, Eff. Dec. 14, 1979.

R 281.305 Application; review.

Rule 5. (1) The following general considerations shall be weighed when reviewing an application:

(a) Effect on the environmental factors and ecological systems involved, such as effect on adjacent lands, waters, aesthetics, wildlife, fisheries, recreational, floodplain, vegetation, and historic and archaeological values.

(b) Cumulative effect upon the natural river area from similar potential developments.

(c) Alternatives available to the applicant.

(d) Secondary effects likely to be caused or encouraged by the project, such as off-road vehicle use, horseback riding, or additional foot access which may lead to noise, erosion, water pollution, or disruption of aesthetic qualities.

(e) Economic factors relating to costs of right-of-way acquisition, construction, and maintenance, and the need for additional facilities or resource protection measures in the approximate area in the future.

(f) All other factors relevant to the purposes and provisions of these rules.

(2) In addition to the general considerations, the following specific requirements shall apply:

(a) Approval for rights-of-way shall be based upon the following:

(i) Alternative routes available to the applicant.

(ii) Proximity of existing rights-of-way, which the proposed facility could share or be located adjacent to.

(iii) The narrowest width right-of-way necessary to facilitate construction and maintenance of the pipeline, transmission line, or road shall be used. The forest management division guidelines, utilities, pipelines and communication structures on state land, which are available by writing the Forest Management Division, Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909, shall be followed.

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(iv) Capacity of new pipelines, transmission lines, and roads to accommodate projected or anticipated future needs in that area to reduce the need for additional future crossings.

(b) Approval of a plan for site location and design of publicly provided recreation facilities, access sites, publicly developed water management projects, or other structures shall be based upon all of the following:

(i) The adopted natural river plan.

(ii) Site location shall be in accordance with the adopted natural river plan.

(iii) A site plan shall be developed so as to take advantage of existing topography and vegetation to minimize the impact of facilities on the natural character of the area.

(iv) Alteration of existing topography shall be kept to a minimum, as provided for in the approved site plan.

(v) Removal of trees, shrubs, and other vegetation in the natural river area shall be in accordance with the adopted natural river plan.

(vi) A plan shall incorporate the use of materials that blend with the natural setting. Dark roof areas, muted earth tone paints or stains, and low silhouettes are considered desirable.

(vii) A proposed use shall be constructed and maintained so that it does not lead to accelerated bank erosion or degradation of the river resources.

(viii) When replacing an existing bridge or culvert, or constructing a new road crossing over a designated natural river, a structure to accomplish the road crossing shall be designed to maximize the purpose and objectives of the natural river act. In reviewing an application, the department shall consider the anticipated effects of the structure on any portion of the natural river area, and shall consider all of the factors outlined in subrule (1)(a) to (f).

History: 1954 ACS 101, p. 24, Eff. Dec. 14, 1979.

R 281.306 Construction and maintenance of approved projects; applicable requirements and specifications.

Rule 6. (1) Construction and maintenance of approved projects shall follow all applicable requirements and specifications set forth in R 281.811 to R 281.846, R 323.1701 to R 323.1714, R 460.511 to R 460.519, R 460.521 to R 460.529, R 460.540 to R 460.548, R 460.588, R 460.852, R 460.865, R 460.1251 to R 460.1422, R 460.2804 to R 460.2879, R 323.1311 to R 323.1329, and R 460.14001 to R 460.14999 of the Michigan Administrative Code. The forest management division guidelines, utilities, pipelines and communication structures on state land, which are available by writing the Forest Management Division, Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909, shall be followed.

(2) The department, in addition to the above requirements, may require other reasonable measures to further protect the natural river environment, including the following as are deemed appropriate and necessary:

(a) Upon reaching the natural vegetation strip during clearing operations for overhead electric transmission line, communication line, and pipeline rights-of-way, tall-growing tree species may selectively be removed. Shrubs, low-growing tree species with a mature height of less than 20 feet, and other vegetation shall be left as natural as possible. Following construction, special measures may be required to discourage damaging off-road vehicle use, enhance wildlife habitat, or protect against soil erosion. The department may require that the right-of-way be left in a rough, ungraded condition and that slash and stumps be scattered over the right-of-way or made into brush piles, if landowner concurrence is obtained.

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(b) A single-span stream crossing shall be used wherever possible, which shall be consistent with proper vertical clearance of the wires over the waterway and proper structure height for minimal adverse visual impact. This will result in poles being placed as far landward of the river banks as possible.

(c) If an underground utility right-of-way crosses the natural vegetation strip, only minimal brush and tree removal shall be performed during construction. Following construction, special measures may be required to restore the natural appearance of the area, stabilize river banks, discourage damaging off-road vehicle use, or enhance wildlife habitat. If revegetation is required, native plant materials commonly used in that area, as specified by the department, shall be replanted in the natural vegetation strip. The department may require that the right-of-way be left in a rough, ungraded condition and that slash and stumps be scattered over the right-of-way or made into brush piles, if landowner concurrence is obtained.

(d) Management of trees, shrubs, and other vegetation for maintenance of all rights-of-way shall be done manually in the natural vegetation strip. However, herbicides may be applied by hand to stumps of selectively cut trees in the natural vegetation strip, where establishing and maintaining a low-growing shrub community in this zone will further the objectives of the act. The department may authorize application of selected pesticides to control insect or disease infestations.

(e) The time and method of planting recommended vegetation shall be specified by the department to ensure maximum survival and growth of plant species.

(f) The stream shall be crossed by a method of construction which minimizes disruption to the streambed. Streams should be crossed at the point and time least damaging to fishery resources, and generally at right angles. If aerial crossings are used, they shall be designed to accommodate recreational use of the river in addition to protection of the streambanks.

(g) Materials used for bank stabilization following a river crossing shall maintain and enhance the natural and aesthetic qualities of the natural river area, control bank erosion, restore fish habitat, and discourage damaging off-road vehicle use. Specifications regarding stabilization efforts and revegetation shall be consistent with the goals of maintaining stream width as near as possible to the original width, and to provide early revegetation of the area involved.

(h) During construction for a new road or bridge, or reconstruction of an existing road or bridge, strict erosion control measures shall be taken to prevent sediment from reaching the river. Only minimal clearing of existing vegetation, grubbing, and grading shall be performed in the natural river area. The construction area shall be restored to as natural a condition as possible in the natural river area immediately following construction.

(i) Where bank stabilization is needed to stabilize a bank along a road or at bridge crossings, materials shall be used that insure the maintenance and enhancement of the natural and aesthetic qualities of the natural river area.

(j) All of the following apply to publicly provided recreation and water management projects and access site facilities:

(i) Construction or maintenance of these projects shall follow the recommendations of the adopted natural river plan.

(ii) Only minimal removal of existing vegetation within the natural river area shall be performed.

(iii) The time and method of planting recommended vegetation shall be specified by the department to ensure maximum survival and growth of plant species.

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(iv) A plan shall incorporate the use of materials that blend with the natural setting. Dark roof areas, muted earth tone paints or stains, and low silhouettes are considered desirable.

History: 1954 ACS 101, p. 24, Eff. Dec. 14, 1979.

R 281.307 Hearing; appeals.

Rule 7. (1) An applicant who is denied approval, or a person who is not satisfied with the decisions of the department, is entitled to a hearing pursuant to sections 71 to 77 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.271 to 24.277 of the Michigan Compiled Laws, and pursuant to R 299.3071 to R 299.3081 of the Michigan Administrative Code.

(2) In making a final decision in a contested case, the commission shall consider those factors listed in R 281.305(1)(a) to (f).

(3) A requested use shall not be granted if the commission determines that the requested use poses substantial hazard to human life, property rights, either public or private, or to the public trust.

History: 1954 ACS 101, p. 26, Eff. Dec. 14, 1979.

R 281.308 Violations.

Rule 8. (1) The staff of the department shall investigate an alleged violation and, if it is found that a violation exists, shall order the applicant, in writing, to correct conditions found to be in violation of these rules.

(2) Any construction or a use of land or premises in violation of these rules may be subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws.

History: 1954 ACS 101, p. 26, Eff. Dec. 14, 1979.

GEOLOGICAL SURVEY DIVISION

SAND DUNE AREAS

(By authority conferred on the commission of natural resources by section 13 of Act No. 222 of the Public Acts of 1976, being §281.663 of the Michigan Compiled Laws)

R 281.401 Lincoln—Lake—Chikaming sand dune area; Berrien county.

Rule 1. The following described area is designated as a sand dune area under the designation of the Lincoln—Lake—Chikaming sand dune area: Northwest fractional ¼ of southeast fractional ¼, southwest fractional ¼ of southeast fractional ¼, section 9; west ¾ fractional section 16; entire sections 17 and 20; northwest ¼, west ½ of southwest ¼, section 21; west ½, section 28; entire sections 29, 30, 31, and 32, T5S, R19W; entire sections 5, 6, and 7; west ¾, section 8; west ½ of northeast ¼, west ½, section 17; entire section 18, west ½ of northeast ¼, west fractional ½, fractional section 19; northeast ¼ of northwest fractional ¼, west fractional ½ of northwest fractional ¼, fractional section 30, T6S, R19W; entire sections 12, 13, 24, 25, 26, 34, and 35; northwest ¼ of northeast ¼, northwest ¼, northwest ¼ of southwest ¼, section 36, T6S, R20W; north fractional ½ of northeast fractional ¼, southwest ¼ of northeast fractional ¼, northwest fractional ¼, north ½ of southwest ¼, southwest ¼ of southwest ¼, fractional section 2; entire fractional sections 3, and 9; north ½ of northeast ¼, southwest ¼ of northeast ¼, northwest ¼, west ½ of southwest ¼, section 10; northwest ¼ of northwest ¼, section 11; northwest of northeast ¼, north fractional ½ of northwest fractional ¼, fractional section 16;

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northeast fractional ¼ of northeast fractional ¼, fractional section 17, T7S, R20W, Berrien county.

History: 1954 ACS 96, p. 60, Eff. Aug. 17, 1978.

R 281.402 South Haven—Covert—Hagar sand dune area; Van Buren and Berrien counties.

Rule 2. The following described area is designated as a sand dune area under the designation of the South Haven—Covert—Hagar sand dune area: South fractional ½ of north fractional ½, south fractional ½, fractional section 21; south ¾ section 22; west ½ of southwest ¼, section 23; west ½ of northwest ¼, northwest ¼ of southwest ¼, section 26; north ½, southwest ¼, north ½ of southeast ¼, section 27; entire sections 28, 29, 32, and 33; southwest ¼ of northeast ¼, west ½, section 34, T1S, R17W; northeast fractional ¼ of northwest fractional ¼, fractional section 3; entire sections 4, 5, 7, and 8; north ½ of northeast ¼, southwest ¼ of northeast ¼, west ½, northwest ¼ of southeast ¼, section 9; northwest ¼, north ½ of southwest ¼, section 16; entire sections 17, 18, and 19; entire section 20 except southeast ¼ of southeast ¼; west ½, section 29; entire section 30; east ½ of northeast ¼ and west ¾, section 31, T2S, R17W; entire sections 24, 25, 35, and 36, T2S, R18W, Van Buren county.

Entire section 1 except east ½ of southeast ¼; entire sections 2, and 10; northeast fractional ¼, west fractional ½ and northwest ¼ of southeast ¼, fractional section 11; north ½ of northwest ¼, section 14; northeast fractional ¼ of northeast fractional ¼, west fractional ½ of northeast fractional ¼ and northwest fractional ¼, fractional section 15, T3S, R18W, Berrien county.

History: 1954 ACS 96, p. 60, Eff. Aug. 17, 1978.

R 281.403 Park—Laketown—Saugatuck sand dune area; Ottawa and Allegan counties.

Rule 3. The following described area is designated as a sand dune area under the designation of the Park—Laketown—Saugatuck sand dune area: West ½ of southwest ¼, section 14; south ½, section 15; south ½, section 16; entire sections 21, and 22; west ¼, section 23; west ½ of northwest ¼, section 26; north 40 acres of Government Lot 1, northwest ¼, Government Lots 3, 4 and west ½ of southwest ¼, section 27; entire sections 28, 33, and 34; west fractional ½ of southwest fractional ¼, section 35, T5N, R16W, Ottawa county.

West ¼, section 2; entire sections 3, 4, 9, and 10; west ¼, section 11; west ¼, section 14; entire sections 15, 16, 21, and 22; west ¼, section 23; west ½ of northwest ¼ and northwest ¼ of southwest ¼, section 26; entire sections 27, 28, 33, and 34, T4N, R16W; entire section 3 except east ½ of southeast ¼; entire sections 4, 5, and 8; Government Lots 1, 2, 3, 4, 5, and 6; north fractional ½ of northeast ¼, southwest ¼ of northeast ¼, south ½ of southeast ¼ and northwest ¼ of southeast ¼, section 9; west ½ of northeast ¼, north ½ of northwest ¼, southeast ¼ of northwest ¼, southwest ¼ of southwest ¼, section 10; Government Lots 1, 2, and 3, section 15; entire section 16 except southwest ¼ of southwest ¼; entire section 17 except southeast ¼ of southeast ¼, Government Lots 1, 2, and 3, section 20; north ½ of northeast ¼, southeast ¼ of northeast ¼, northeast ¼ of northwest ¼, section 21, T3N, R16W, Allegan county.

History: 1954 ACS 96, p. 61, Eff. Aug. 17, 1978.

R 281.404 Laketon—Fruitport—Spring Lake—Grand Haven sand dune area; Muskegon and Ottawa counties.

Rule 4. The following described area is designated as a sand dune area under the designation of the Laketon—Fruitport—Spring Lake—Grand Haven sand

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dune area: Southeast ¼ of southeast ¼, Government Lot 10, section 6; entire sections 7, and 8; entire section 9 except east ½ of northeast ¼; entire section 16 except southeast ¼ of southeast ¼; entire section 21 except Government Lot 1; entire sections 17, 20, 28, 33, and 34; Government Lots 2, 3, and 4, south ½ of southwest ¼, southeast ¼, section 35, T10N, R17W; west ½ of northwest ¼, west ½ of southwest ¼, southeast ¼ of southwest ¼, section 1; entire sections 2, 3, 10, and 11; southwest ¼ of northeast ¼, northwest ¼, west ½ of southwest ¼, northeast ¼ of southwest ¼, Government Lot 3, northwest ¼ of southeast ¼, section 12; entire sections 13, 14, 23, 24, 25, 26 and 36, T9N, R17W; southwest fractional ¼ of northwest fractional ¼, west fractional ½ of southwest fractional ¼, southeast ¼ of southwest fractional ¼, section 18; southwest ¼ of northeast ¼, northwest fractional ¼, southwest fractional ¼, west ½ of southeast ¼, section 19; west ½ of southwest ¼, section 29; entire fractional sections 30, and 31; Government Lot 1, section 32, T9N, R16W, Muskegon county.

Entire section 1, T8N, R17W; entire section 5 except east ½ of northeast ¼; entire sections 6, 7, and 8; southwest ¼ of northwest ¼, west ½ of southwest ¼, section 9; northwest ¼, section 16; entire sections 17, 18, 19, and 20; Government Lot 12, southwest ¼, west ½ of southeast ¼, section 21; entire section 28 except northeast ¼ of northeast ¼; entire sections 29, 32, and 33; southwest ¼ of northwest ¼, west ½ of southwest ¼, section 34, T8N, R16W; west ½ of northwest ¼, southwest ¼, section 3; entire sections 4, 5, 8, and 9; west ½, southwest ¼ of southeast ¼, section 10; west ¾, section 15; entire sections 16, 17, and 20; entire section 21 except southeast ¼ of southeast ¼; northwest ¼ of northeast ¼, northwest ¼, north ½ of southwest ¼, section 22; northeast ¼ of northwest ¼, Government Lots 1 and 2, section 28, T79, R16W, Ottawa county.

History: 1954 ACS 98, p. 61, Eff. Aug. 17, 1978.

R 281.405 Golden—Benona—Claybanks sand dune area; Oceana county.

Rule 5. The following described area is designated as a sand dune area under the designation of the Golden—Benona—Claybanks sand dune area: Government Lot 3, section 5; entire section 7; west ½ of northeast ¼, Government Lots 1, 2, and 3, southwest ¼ of southwest ¼, east ½ of southwest ¼, west ½ of southeast ¼, section 8; entire sections 17, 18, and 19; north ½, Government Lots 1 and 2, northeast ¼ of southwest ¼, northwest ¼ of southeast ¼, section 20; west ½, section 30; north ½ of Government Lot 4, section 31, T15N, R18W; entire sections 13, 24, 25, 26, and 35; entire section 36 except east ½ of southeast ¼, T15N, R19W; west ½ of northeast ¼, northwest ¼, north ½ of southwest ¼, southwest ¼ of southwest ¼, section 1; entire sections 2 and 11; northwest ¼ of northwest ¼, south ½ of northwest ¼, southwest ¼, southwest ¼ of southeast ¼, section 12; entire section 13 except east ½ of northeast ¼; entire sections 24 and 25, T14N, R19W; southwest ¼ of northwest ¼, west ½ of southwest ¼, southeast ¼ of southwest ¼, section 19; entire section 30 except northeast ¼ of northeast ¼; entire section 31; southwest ¼ of northwest ¼, Government Lots 3 and 4, section 32, T14N, R18W; Government Lots 2, 3, and 4, southwest ¼, west ½ of southeast ¼, section 5; entire section 6; west ½ of northeast ¼, Government Lots 1, 2, and 3, northwest ¼ of southeast ¼ section 8, T13N, R18W, Oceana county.

History: 1954 ACS 98, p. 61, Eff. Aug. 17, 1978.

R 281.406 Grant—Hamlin—Pere Marquette sand dune area; Mason county.

Rule 6. The following described area is designated as a sand dune area under the designation of the Grant—Hamlin—Pere Marquette sand dune area: South ¼, section 13; entire sections 14, 23, and 24; entire section 25 except southeast ¼ of

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southeast ¼; entire sections 26, 27, 28, 32, 33, and 34; entire section 35 except southeast ¼ of southeast ¼, north ½ of northwest ¼, southwest ¼ of northwest ¼, section 36, T20N, R18W. Government Lot 1, section 2; Government Lots 1, 2, 3, 4, and 5, section 3; north fractional ½, Government Lots 1, 2, and 3, northwest ¼ of southwest ¼, section 4; entire sections 5, 6, 7, 8, 9, 17, 18, 19, 20, and 21; northwest fractional ¼ of northwest fractional ¼, south ½ of northwest fractional ¼, southwest ¼, southwest ¼ of southeast ¼, section 27; entire sections 28, 29, 30, 32, and 33; northwest ¼ of northeast ¼, south ½ of northeast ¼, northwest ¼, northwest ¼ of southwest ¼, southeast ¼ of southeast ¼, north ½ of southeast ¼, section 34; southwest ¼ of southwest ¼ section 35, T19N, R18W; northwest ¼ of northwest ¼, section 2; northeast ¼ of northeast ¼, Government Lot 1, south 13.8 acres of Government Lot 2, section 3; entire sections 4, and 9; Government Lots 2 and 3, southwest ¼ of northwest ¼, section 10, T18N, R18W, Mason county.

History: 1954 ACS 98, p. 62, Eff. Aug. 17, 1978.

R 281.407 Hendricks—Moran sand dune area; Mackinac county.

Rule 7. The following described area is designated as a sand dune area under the designation of the Hendricks—Moran sand dune area: Southeast ¼ of southeast ¼, section 25; east ¼, section 36, T43N, R8W; south ½ of southwest ¼, section 27; south ¼, section 28; south ¼, section 29; south ¼, section 30; entire sections 31, 32, 33, and 34; southwest ¼ of northwest ¼, southwest ¼, northwest ¼ of southeast ¼, south ½ of southeast ¼, section 35; south ½ of southwest ¼, southwest ¼ of southeast ¼, section 36, T43N, R7W; entire sections 1, 2, 3, 4, and 5; northeast ¼, Government Lot 1, section 6; entire sections 7, 8, 9, 10, 11, 12, and 13, T42N, R7W; southwest ¼ of southwest ¼, section 5; south ½ of northwest ¼, southwest ¼, northwest ¼ of southeast ¼, south ½ of southeast ¼, section 6; entire section 7; entire section 8 except north ½ of northeast ¼; southwest ¼ of northwest ¼, south ½, section 9; southwest ¼, south ½ of southeast ¼, section 10; southwest ¼ of southwest ¼, section 11; southwest of northwest ¼, southwest ¼, southwest ¼ of southeast ¼, section 13; entire section 14 except north ½ of northeast ¼; entire sections 15, 16, 17, 18, 19, 20, 21, 22, and 23; entire section 24 except east ½ of northeast ¼; entire sections 25, 26, and 36, T42N, R6W; Government Lots 3, 4, and 5, west fractional ½ of northwest fractional ¼, southwest fractional ¼ of southwest fractional ¼, section 19; entire sections 30, 31, 32, and 33, T42N, R5W; entire sections 3, 4, 5, 6, 8, and 10; southwest ¼ of southeast ¼, of southeast ¼, section 11; entire sections 14, 15, 16, and 22; north ½, north ½ of southwest ¼, southwest ¼ of southwest ¼, north 40 acres of Government Lot 1, north 40 acres of Government Lot 2, Government Lot 3, section 23; entire sections 26 and 27, T41N, R5W, Mackinac county.

History: 1954 ACS 98, p. 62, Eff. Aug. 17, 1978.

WATERWAYS COMMISSION

WATERCRAFT RENTED TO PUBLIC

R 281.501, R 281.502 Rescinded.

History: 1944 ACS 34, p. 20; 1954 AC, pp. 1301-1305; rescinded 1954 ACS 54, p. 28, Eff. May 15, 1968.

WATERCRAFT RENTED TO PUBLIC

(By authority conferred on the state waterways commission by section 3 of Act No. 257 of the Public Acts of 1952, as amended, being §281.563 of the Michigan Compiled Laws)

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R 281.511 Scope.

Rule 1. These rules are promulgated for the purpose of implementing Act No. 257 of the Public Acts of 1952, as amended, being §§281.561 to 281.569 of the Michigan Compiled Laws, hereinafter referred to as the act.

History: 1954 ACS 54, p. 24, Eff. May 15, 1968.

R 281.512 Inspection of watercraft and equipment.

Rule 2. Watercraft subject to the act shall be:

(a) Of sound and substantial construction and in good seaworthy condition.

(b) Equipped by the livery operator with oars or paddles, as hereinafter provided, which shall be of sturdy construction and without holes, large chips, or cracks which will diminish their operation effectiveness, or structural strength. This subdivision applies to all watercraft, including those propelled by machinery or sail. Watercraft with oarlock sockets shall be equipped with not less than 2 oars and 2 oarlock horns. Watercraft without oarlock sockets shall be equipped with not less than 2 paddles.

(c) Equipped by the livery operator with an anchor of sufficient size and weight and an anchor line of sufficient strength and length to accommodate the watercraft in normal depth of the waters on which it is to be used. This requirement does not apply to canoes.

(d) Equipped by the livery operator with 1 life-saving cushion or other approved life-saving device, in good condition, per person. Life-saving equipment shall be of the type approved by the U.S. Coast Guard and shall bear a stamp or label indicating such approval. Other equipment currently prescribed by law shall also be carried on board.

(e) Provided with sufficient buoyancy to keep the watercraft from sinking when it is filled with water and passengers are clinging to it if the aggregate weight of motor, passengers, and equipment carried in or attached to the watercraft does not exceed its maximum weight capacity, as determined by the maximium weight capacity formula contained in these rules. This requirement shall not become effective until January 1, 1973, except that watercraft newly placed in operation after January 1, 1970, shall meet this requirement.

(f) Pontoon boats shall meet the following deck requirements:

(i) The deck shall not exceed the width at the pontoons.

(ii) The deck shall not be greater than 6 inches above the pontoons.

(iii) The deck length within railings shall not be greater than 80% of pontoon length and shall not overhang the pontoons.

(iv) The deck shall drain freely.

History: 1954 ACS 54, p. 24, Eff. May 15, 1968; 1954 ACS 59, p. 11, Eff. Aug. 14, 1969.

R 281.513 Maximum capacity tags generally.

Rule 3. The sheriff of each county or any peace officer duly authorized by him shall issue to the owner, for each watercraft, a maximum capacity tag. This tag shall be placed by, or in the presence of, the inspecting officer on the watercraft in such a location and manner as to be clearly visible and legible from the position designed or normally intended to be occupied by the operator of the watercraft when underway.

History: 1954 ACS 54, p. 25, Eff. May 15, 1968.

R 281.514 Maximum capacity tags; watercraft for use with outboard motors.

Rule 4. The capacity tag for a watercraft for use with an outboard motor shall contain:

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(a) The total weight of persons, motor, gear, and other articles placed aboard which the watercraft is capable of carrying with safety under normal conditions.

(b) The recommended number of persons commensurate with the weight capacity of the watercraft at a presumed weight of 150 pounds per person.

(c) The maximum horsepower of the motor the watercraft is designed or intended to accommodate.

(d) A notice that the information appearing on the capacity tag applies under normal conditions and that the weight of the outboard motor and its associated equipment is considered to be part of the weight capacity.

History: 1954 ACS 54, p. 25, Eff. May 15, 1968.

R 281.515 Maximum capacity tags; watercraft not for use with outboard motors.

Rule 5. The capacity tag for a watercraft not for use with an outboard motor, such as a canoe, rowboat, inboard boat, or inboard-outboard boat shall contain:

(a) The total weight of persons, gear, and other articles placed aboard which the watercraft is capable of carrying with safety under normal conditions.

(b) The recommended number of persons commensurate with the weight capacity of the watercraft at a presumed weight of 150 pounds per person.

(c) A notice that the information appearing on the capacity plate applies under normal conditions.

History: 1954 ACS 54, p. 25, Eff. May 15, 1968.

R 281.516 Weight capacity.

Rule 6. (1) The capacity tag shall contain the weight capacity of the watercraft determined as hereinafter provided.

(2) The weight capacity of a watercraft for use with an outboard motor, except a watercraft dependent solely upon the buoyancy of pontoons or similar flotation devices, shall be determined by either of the following methods:

(a) The formula WC=7½ LBD, where WC is the weight capacity in pounds, L is the centerline length, B is the maximum beam amidships, and D is the effective depth figured from keel to lowest freeboard.

(b) Reference to the manufacturer's capacity tag installed in a watercraft if manufactured or offered for original sale in this state on or after January 1, 1968, or in accordance with standards approved by the state waterways commission.

(3) The weight capacity of a watercraft with a permanently installed engine, except watercraft dependent solely upon the buoyancy of pontoons or similar flotation devices, shall be determined in the same manner as for watercraft for use with outboard motors, except that the weight of all machinery and associated operating gear including battery, fuel, and fuel system shall be subtracted.

(4) The weight capacity of a watercraft dependent solely upon the buoyancy of pontoons or similar flotation devices shall be determined by applying the formula WC=[(62½V)−Boat Wgt.]÷2, where WC is the weight capacity of the watercraft, and V is the volume of both pontoons. If equipped with a permanently installed engine, the weight of all machinery and associated operating gear including battery, fuel, and fuel system shall be subtracted from the weight capacity.

(5) The weight capacity of a rowboat and any other watercraft for use without an outboard motor shall be determined in the same manner as for a watercraft for use with an outboard motor, following the formula expressed as WC=7½ LBD.

(6) The weight capacity of a canoe shall be determined by the formula WC=7½ LBD x 2.

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(7) The livery operator shall provide the inspecting officer with information relative to the weight of the watercraft either by reference to the manufacturer's rating or by actual weighing of the watercraft.

History: 1954 ACS 54, p. 25, Eff. May 15, 1968; 1954 ACS 59, p. 11, Eff. Aug. 14, 1969.

R 281.517 Horsepower capacity.

Rule 7. The horsepower capacity of an outboard watercraft, excepting canoes or pontoon craft, shall be determined by either of the following methods:

(a) The horsepower capacity of an outboard watercraft, other than a canoe, and except one dependent solely upon the buoyancy of pontoons or similar flotation devices, shall not exceed the value given by the boat horsepower table in figure 1. The horsepower capacity of an outboard watercraft, other than a canoe, and dependent solely upon the buoyancy of pontoons or similar flotation devices shall not exceed the value given by multiplying the cubic feet of flotation in the pontoons by the pontoon length in feet and dividing by the pontoon diameter in inches. If the pontoons are not circular in cross-section, the diameter of the largest circle that can be inscribed in the pontoon shall be used.

(b) By reference to a manufacturer's capacity plate installed in a watercraft, if manufactured or offered for original sale in this state on or after January 1, 1968, or in accordance with standards approved by the state waterways commission, or the horsepower capacity recommended by the livery operator, whichever is the lesser.

FIGURE 1

Boat Horsepower Table

Multiply overall length ____ x stern width ____ = Factor

(both measurements in decimal feet) (nearest whole number)

	Remote steering and 20" or equivalent	No remote steering or transom less than 20" or equivalent
Factor is: under 40 40-45 46-49 50-53 54-57	over 57	over 57
H.P. Cap. is 5 10 15 20 25	(2 x Factor)—90	(¾ Factor)—20

H.P. Cap. =_____ (raise to even 5 h.p. increment)

History: 1954 ACS 54, p. 26, Eff. May 15, 1968; 1954 ACS 59, p. 11, Eff. Aug. 14, 1969.

R 281.518 Horsepower capacity for canoes.

Rule 8. The horsepower capacity for canoes shall be determined by the following table, or by the horsepower capacity recommended by the livery operator, whichever is the lesser.

For canoes under 15 feet in length..... 4 horsepower
For canoes under 15 to 18 feet in length..... 5 horsepower
For canoes over 18 feet in length..... 8 horsepower

History: 1954 ACS 54, p. 26, Eff. May 15, 1968.

R 281.519 Passenger capacity.

Rule 9. Passenger capacity shall be determined by applying that 1 of the following formulas resulting in the lesser capacity:

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(a) (WC − M) ÷ 150, where M is the weight of the largest outboard motor and associated operating equipment which the watercraft is represented to accommodate if usable with outboard motor; and 150 is the presumed pound weight per person. For a watercraft with an inboard or inboard-outboard motor, divide WC by 150.

(b) Boat length multiplied by the maximum boat beam divided by 15. This formula is not applicable to canoes.

History: 1954 ACS 54, p. 28, Eff. May 15, 1968; 1954 ACS 59, p. 12, Eff. Aug. 14, 1969.

R 281.529 Rescission.

Rule 19. The rules of the commission pertaining to minimum standards for watercraft under the boat livery act, being R 281.501 and R 281.502 of the Michigan Administrative Code and appearing on pages 1301 to 1305 of the 1954 volume of the Code, are rescinded.

History: 1954 ACS 54, p. 28, Eff. May 15, 1968.

BOAT AND WATER SAFETY SECTION

SPECIAL LOCAL WATERCRAFT CONTROLS

R 281.651

Editor's note: Transferred to R 281.716.1.

R 281.652

Editor's note: Transferred to R 281.737.1.

LAW ENFORCEMENT DIVISION

SPECIAL LOCAL SNOWMOBILE CONTROLS

(By authority conferred on the commission of natural resources by section 14a of Act No. 74 of the Public Acts of 1968, as amended, and sections 9 and 255 of Act No. 380 of the Public Acts of 1965, as amended, being §§257.1504b, 16.109, and 16.355 of the Michigan Compiled Laws)

Regulation No. 63, Oakland county.

R 281.663.1 Bass Lake; snowmobiles prohibited.

Rule 1. On the frozen surface of Bass lake, section 16, town 2 north, range 8 east, Commerce township, Oakland county, it is unlawful to operate a snowmobile.

History: 1954 ACS 79, p. 17, Eff. June 15, 1974.

MARINE SAFETY SECTION

SPECIAL LOCAL WATERCRAFT CONTROLS

(By authority conferred on the commission of natural resources by section 13 of Act No. 303 of the Public Acts of 1967, as amended, being §281.1013 of the Michigan Compiled Laws)

Regulation No. 0, General provisions.

R 281.700.1 Definitions.

Rule 1. The words and phrases defined in Act No. 303 of the Public Acts of 1967, being §§281.1001 to 281.1199 of the Michigan Compiled Laws, have the

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same meaning when used in the rules prescribing special local watercraft controls, whether such rules were promulgated before or after this rule becomes effective.

History: 1954 ACS 62, p. 5, Eff. May 18, 1970.

R 281.700.2 "Airboat" defined.

Rule 2. As used in these rules, "airboat" means a vessel or contrivance, other than a conventional seaplane, helicopter, or autogiro, that makes use of motor-powered propeller, air vane, or other aerostatic force to support or propel, or both to support and propel, the vessel on or over the surface of the water.

History: 1954 ACS 74, p. 49, Eff. Dec. 22, 1972.

R 281.700.3 High-speed boating and water skiing prohibited; time.

Rule 3. (1) On the waters of this state where special local watercraft controls have been established prohibiting high-speed boating and water skiing from 6:30 p.m. to 10:00 a.m. of the following day, the hours shall be 7:30 p.m. to 11:00 a.m. of the following day when and where eastern daylight saving time is in effect.

(2) "Daylight saving time" means the advancing of the standard time by 1 hour, commencing at 2 o'clock antemeridian on the last Sunday of April of each year and ending at 2 o'clock antemeridian on the last Sunday of October of each year in conformity with the federal uniform time act of 1966.

History: 1954 ACS 80, p. 7, Eff. July 18, 1974.

Regulation No. 1, Alcona county.

R 281.701.1 Crooked lake; high-speed boating and water skiing prohibited.

Rule 1. On the waters of Crooked lake, sections 17 and 18, town 27 north, range 5 east, Mitchell township, Alcona county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 43, p. 5, Eff. Aug. 14, 1965; 1954 ACS 77, p. 9, Eff. Oct. 4, 1973.

R 281.701.2 McCollum lake; hours for water skiing.

Rule 2. On the waters of McCollum lake, county of Alcona, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise be assisting in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day. (See R 281.768.2 for regulation covering the part of this lake lying in Oscoda county.)

History: 1954 ACS 43, p. 6, Eff. Aug. 14, 1965.

R 281.701.3 Rescinded.

History: 1954 ACS 43, p. 6, Eff. Aug. 14, 1965; 1954 ACS 84, p. 24, Eff. Aug. 20, 1975; rescinded 1954 ACS 88, p. 49, Eff. July 23, 1976.

R 281.701.4 Vaughn lake; hours for high-speed boating and water skiing.

Rule 4. On the waters of Vaughn lake, sections 20, 21, 28 and 29, T25N, R6E, Curtis township, Alcona county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 82, p. 6, Eff. Feb. 28, 1975.

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Regulation No. 2, Alger county.

R 281.702.1 AuTrain river; slow—no wake speed zone.

Rule 1. On the waters of the AuTrain river, in the north ½, section 32 and the northwest ¼, section 33, T47N, R20W, AuTrain township, Alger county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

R 281.702.2 AuTrain river; slow—no wake speed zone.

Rule 2. On the waters of the AuTrain river in section 5, T46N, R20W, AuTrain township, Alger county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

R 281.702.3 Cleveland Cliffs basin, AuTrain river; seasonal prohibition of motorboats.

Rule 3. On the waters of the Cleveland Cliffs basin, AuTrain river, in the south ½ of section 25 and section 36, T45N, R21W, and the south ½ of section 30 and section 31, T45N, R20W, Limestone and AuTrain townships, Alger county, it is unlawful to operate a motorboat during September, October, and November.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

Regulation No. 3, Allegan county.

R 281.703.1 Kalamazoo river, Saugatuck township; no wake speed.

Rule 1. On the waters of the Kalamazoo river, located in Saugatuck township, Allegan county, state of Michigan, extending from the entrance piers of Lake Michigan, southerly to a line extending westward from the south side of Mason Street, village of Saugatuck, across the Kalamazoo river, all watercraft shall proceed at a speed so as not to create a wake.

History: 1954 ACS 43, p. 6, Eff. Aug. 14, 1965.

R 281.703.2 Saugatuck harbor; lights.

Rule 2. All watercraft, other than vessels whose lighting requirements are presently covered by existing state or federal laws or regulations, used on the waters of Saugatuck harbor shall, during hours of darkness or low visibility, display 1 white light visible through an arc of 360 degrees and of such intensity as to be visible on a dark night with a clear atmosphere at a distance of at least 1 mile.

History: 1954 ACS 43, p. 6, Eff. Aug. 14, 1965.

R 281.703.3 Big lake; hours for high-speed boating and water skiing.

Rule 3. On the waters of Big lake, Watson township, Allegan county, state of Michigan, no operator of any motorboat shall operate such motorboat at high speed or have in tow or shall otherwise be assisting in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 43, p. 6, Eff. Aug. 14, 1965.

R 281.703.4 Selkirk lake; hours for high-speed boating and water skiing; obstructing channel.

Rule 4. (1) On the waters of Selkirk lake, township of Wayland, county of Allegan, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

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(a) Operate such motorboat at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

(2) On the waters of the channel connecting Selkirk lake to the north bay of Selkirk lake, township of Wayland, county of Allegan, state of Michigan, no person shall anchor any vessel or otherwise obstruct such channel during the period from 10:00 a.m. to 6:30 p.m. of any day.

History: 1954 ACS 43, p. 6, Eff. Aug. 14, 1965.

R 281.703.5 Ely lake; motorboats prohibited.

Rule 5. On the waters of Ely lake, Clyde township, Allegan county, state of Michigan, no person shall operate or give permission for the operation of any motorboat.

History: 1954 ACS 45, p. 5, Eff. Feb. 14, 1966.

R 281.703.6 East lake; high-speed boating and water skiing prohibited.

Rule 6. On the waters of East lake, township of Hopkins, county of Allegan, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 53, p. 5, Eff. Feb. 14, 1968.

R 281.703.7 Round lake; high-speed boating and water skiing prohibited.

Rule 7. On the waters of Round lake, section 10, town 4 north, range 11 west, Leighton township, Allegan county, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 5, Eff. Jan. 4, 1971.

R 281.703.8 Goshorn lake; slow—no wake speed.

Rule 8. On the waters of Goshorn lake, section 3, town 3 north, range 16 west, Saugatuck township, and section 34, town 4 north, range 16 west, Laketown township, Allegan county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 69, p. 29, Eff. Nov. 1, 1971.

R 281.703.9 Wetmore lake; high-speed boating and water skiing prohibited.

Rule 9. On the waters of Wetmore lake, section 3, T2N, R13W, Allegan township, Allegan county, it is unlawful for the operator of a vessel to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 100, p. 69, Eff. June 20, 1979.

R 281.703.10 Dumont lake; hours for high-speed boating and water skiing.

Rule 10. On the waters of Dumont lake, sections 32 and 33, T3N, R13W, Monterey township, and sections 4 and 5, T2N, R13W, Allegan township, Allegan

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county, it is unlawful, during the period of May 15 to September 15, on Saturdays, Sundays, Memorial day, Independence day, and Labor day, except between the hours of 10:00 a.m. and 6:30 p.m., to:

(a) Operate a vessel at high speed, which means a speed at or above which a motorboat reaches a planing condition.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 89, p. 6, Eff. Nov. 26, 1976.

R 281.703.11 Hutchins lake; hours for high-speed boating and water skiing.

Rule 11. On the waters of Hutchins lake, sections 6 and 7, T2N, R15W, Clyde township, and sections 1 and 12, T2N, R16W, Ganges township, Allegan county, an operator of a motorboat, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, shall not:

(a) Operate the motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 89, p. 7, Eff. Oct. 14, 1976.

Regulation No. 4, Alpena county.

R 281.704.1 Thunder Bay river and floodwaters; slow—no wake speed.

Rule 1. On the waters of the Thunder Bay river and floodwaters from the west line of section 21, town 31 north, range 8 east, downstream and 300 feet in any direction from the mouth in Lake Huron, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 76, p. 6, Eff. June 20, 1973.

Regulation No. 5, Antrim county.

R 281.705.1 Rivers and channels; slow—no wake speed.

Rule 1. On the following rivers and channels, county of Antrim, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed:

(a) Clam river from Torch lake to Clam lake.
(b) Grass river from Clam lake to lake Bellaire.
(c) Intermediate river from lake Bellaire to Intermediate lake.
(d) Channel connecting Intermediate lake to Hanley lake.
(e) Channel connecting Hanley lake to Benway lake.
(f) Channel connecting Benway lake to Wilson lake.
(g) Channel connecting Wilson lake to Ellsworth lake.
(h) Channel connecting Ellsworth lake to St. Clair lake.

History: 1954 ACS 43, p. 6, Eff. Aug. 14, 1965.

R 281.705.2 Torch river and Torch lake adjacent to its mouth; slow—no wake speed.

Rule 2. On the waters of the Torch river, sections 6, 7, and 18, town 28 north, range 8 west, township of Milton, county of Antrim, from the south line of section 18, town 28 north, range 8 west, to the north end of the river and for a distance of 300 feet in any direction in Torch lake, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal. (See R 281.740.8 for regulation covering the part of this river and adjacent lake lying in Kalkaska county.)

History: 1954 ACS 69, p. 29, Eff. June 15, 1971.

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R 281.705.3 Jordan river; motorboats prohibited.

Rule 3. On the waters of the Jordan river within Antrim county, state of Michigan, no person shall operate any vessel propelled by machinery.

History: 1954 ACS 66, p. 6, Eff. Jan. 4, 1971.

R 281.705.4 Wetzel lake; motorboats prohibited.

Rule 4. On the waters of Wetzel lake, sections 2 and 11, town 29 north, range 6 west, Mancelona township, Antrim county, it shall be unlawful for any person to operate a motorboat, which means a vessel propelled by machinery.

History: 1954 ACS 69, p. 30, Eff. June 25, 1971.

Regulation No. 6, Arenac county.

R 281.706.1 AuGres river; slow—no wake speed.

Rule 1. On the waters of the AuGres river, Sims and AuGres townships, Arenac county, from the north line of section 13, town 19 north, range 6 east, downstream to the easterly end of the entrance channel pierhead, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 76, p. 6, Eff. June 20, 1973.

R 281.706.2 Pine river; slow—no wake speed.

Rule 2. On the waters of the Pine river, from the Highway bridge, in the southeast ¼ of the southeast ¼, section 5, T18N, R5E, Standish township, Arenac county, downstream and 500 feet in any direction from the mouth of the river in Saginaw bay, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 6, Eff. Jan. 3, 1975.

Regulation No. 7, Baraga county.

R 281.707.1 Craig lake; motorboats prohibited.

Rule 1. On the waters of Craig lake, sections 21, 22, 27, 28, 33 and 34, town 49 north, range 31 west, Spurr township, Baraga county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 30, Eff. Nov. 1, 1971.

R 281.707.2 Crooked lake; motorboats prohibited.

Rule 2. On the waters of Crooked lake, sections 26, 27, 34 and 35, town 49 north, range 31 west, Spurr township, Baraga county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 30, Eff. Nov. 1, 1971.

R 281.707.3 Nelligan lake; motorboats prohibited.

Rule 3. On the waters of Nelligan lake, sections 11 to 14, town 48 north, range 31 west, Spurr township, Baraga county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 30, Eff. Nov. 1, 1971.

R 281.707.4 Teddy lake; motorboats prohibited.

Rule 4. On the waters of Teddy lake, sections 32 and 33, town 49 north, range 31 west, Spurr township, Baraga county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 30, Eff. Nov. 1, 1971.

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R 281.707.5 Clair lake; motorboats prohibited.

Rule 5. On the waters of Clair lake, section 21, town 49 north, range 31 west, Spurr township, Baraga county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 30, Eff. Nov. 1, 1971.

R 281.707.6 Unnamed lake in section 2, town 48 north, range 31 west, and section 35, town 49 north, range 31 west, Spurr township; motorboats prohibited.

Rule 6. On the waters of that unnamed lake in section 2, town 48 north, range 31 west, and section 35, town 49 north, range 31 west, Spurr township, Baraga county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 30, Eff. Nov. 1, 1971.

R 281.707.7 Unnamed lake in section 2, town 48 north, range 31 west, Spurr township; motorboats prohibited.

Rule 7. On the waters of that unnamed lake in section 2, town 48 north, range 31 west, Spurr township, Baraga county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 30, Eff. Nov. 1, 1971.

Regulation No. 8, Barry county.

R 281.708.1 Gun lake, canals on Englands Point; slow—no wake speed.

Rule 1. On all waters of the canals of Gun lake, whose entrance is on the west side of Englands Point, sections 5 and 6, town 2 north, range 10 west, township of Orangeville, county of Barry, state of Michigan, lying easterly of a line 750 feet west of and parallel to the east section line of section 6, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 57, p. 6, Eff. Feb. 14, 1969.

R 281.708.2 Thornapple river in part of Hastings township; slow—no wake speed.

Rule 2. On the waters of the Thornapple river, sections 25 and 26, town 3 north, range 8 west, Hastings township, Barry county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 30, Eff. June 15, 1971.

R 281.708.3 Cuddy drain to Gun lake; slow—no wake speed.

Rule 3. On the waters of Cuddy drain to Gun lake, sections 19 and 30, town 3 north, range 10 west, Yankee Springs township, Barry county, it shall be unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 7, Eff. Aug. 26, 1971.

R 281.708.4 Long lake, Barry county; hours for high-speed boating and water skiing.

Rule 4. On the waters of Long lake, sections 10 and 15, town 1 north, range 8 west, Johnstown township, Barry county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 75, p. 5, Eff. Mar. 27, 1973.

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R 281.708.5 Long lake, Barry county; water skiers; towing limitation.

Rule 5. On the waters of Long lake, sections 10 and 15, town 1 north, range 8 west, Johnstown township, Barry county, it is unlawful to tow, or otherwise assist in the propulsion of, more than 1 person at 1 time on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 75, p. 5, Eff. Mar. 27, 1973.

R 281.708.6 Pine lake and connecting channels and canals, portion of; slow—no wake speed.

Rule 6. On that portion of Pine lake and the channels and canals connected thereto, between a line from where the west line of lot 28, supervisor's plat of Ford's point, intersects the water's edge, thence southwesterly to where the south line of lot 122, supervisor's plat no. 1 of Long point, intersects the water's edge and a line from the point where the east line of lot 118, supervisor's plat no. 1 of Long point, intersects the water's edge, thence northerly to the point where the south line of lot 38, supervisor's plat of Ford's point, intersects the water's edge, section 5, T1N, R10W, Prairieville township, Barry county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 78, p. 15, Eff. Jan. 15, 1974; 1954 ACS 97, p. 13, Eff. Nov. 8, 1978.

R 281.708.7 Deep lake; slow—no wake speed.

Rule 7. On the waters of Deep lake, section 26, T3N, R10W, Yankee Springs township, Barry county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

R 281.708.8 Gun lake; channels and canals; slow—no wake speed.

Rule 8. On the waters of the canals and channels connected to Gun lake, sections 19 and 30, T3N, R10W, Yankee Springs township, Barry county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 93, p. 18, Eff. Sept. 17, 1977.

R 281.708.9 Pine lake and connecting channels and canals, portions of; slow—no wake speed.

Rule 9. On the waters of Pine lake and the channels and canals connected thereto, sections 5, 6, 7, and 8, T1N, R10W, Prairieville township, Barry county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 100 feet of any shore, dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when water skiers are being picked up or dropped off if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.

History: 1954 ACS 97, p. 13, Eff. Nov. 8, 1978.

R 281.708.10 Gull lake; watercraft speed limit.

Rule 10. On the waters of Gull lake, section 36, T1N, R10W, Prairieville township, and section 31, T1N, R9W, Barry township, Barry county, it is unlawful at any time to operate a vessel at a speed in excess of 40 miles per hour (64 kilometers per hour). (See R 281.739.9 covering that portion of Gull lake which lies in Kalamazoo county.)

History: 1954 ACS 97, p. 13, Eff. Nov. 8, 1978.

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Regulation No. 9, Bay county.

R 281.709.1 Kawkawlin river and Saginaw bay adjacent to mouth; slow—no wake speed.

Rule 1. On the waters of the Kawkawlin river, section 1, town 14 north, range 4 east; sections 4, 5, and 6, town 14 north, range 5 east; section 36, town 15 north, range 4 east; and section 33, town 15 north, range 5 east, townships of Bangor, Kawkawlin and Monitor, county of Bay, state of Michigan, from the highway bridge at state highway M-13 downstream and 300 feet in any direction from the mouth of the river in Saginaw bay, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 65, p. 7, Eff. Nov. 3, 1970.

R 281.709.2 Kawkawlin river artificial canals; slow—no wake speed.

Rule 2. On the artificial canals connected to the Kawkawlin river in section 5, town 14 north, range 5 east and section 33, town 15 north, range 5 east, township of Bangor, county of Bay, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 65, p. 7, Eff. Nov. 3, 1970.

R 281.709.3 Saginaw river, portion of; slow—no wake speed.

Rule 3. (1) On that portion of the waters of the Saginaw river, located from the Penn Central railroad bridge upstream to the Veterans Memorial bridge (M 25), section 21, T14N, R5E, city of Bay City, Bay county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

(2) On that portion of the waters of the Saginaw river, located from the Lafayette street bridge upstream to the Old Cass avenue bridge, section 32, T14N, R5E, city of Bay City, Bay county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

(3) This rule applies only to vessels used for recreational purposes.

History: 1954 ACS 98, p. 63, Eff. June 22, 1978.

Regulation No. 10, Benzie county.

R 281.710.1 Ann lake; hours for high-speed boating and water skiing.

Rule 1. On the waters of Ann lake, Benzie county, state of Michigan, no operator of any motorboat, shall have in tow, or shall otherwise be assisting in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 43, p. 7, Eff. Aug. 14, 1965.

R 281.710.2 Platte river; slow—no wake speed.

Rule 2. On the waters of the Platte river from Lake Michigan to Loon lake and from Loon lake to the last channel marker where the Platte river enters Platte lake, Benzie county, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 43, p. 7, Eff. Aug. 14, 1965.

R 281.710.3 Lake View, west basin; slow—no wake speed.

Rule 3. On the waters of the west basin of lake View, sections 15 and 22, town 27 north, range 13 west, Almira township, Benzie county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 5, Eff. May 31, 1973.

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R 281.710.4 Lake View, east basin; high-speed boating and water skiing prohibited.

Rule 4. On the waters of the east basin of lake View, sections 15 and 22, town 27 north, range 13 west, Almira township, Benzie county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 75, p. 5, Eff. May 31, 1973.

R 281.710.5 Herendeene lake; high-speed boating and water skiing prohibited.

Rule 5. On the waters of Herendeene lake, section 15, town 27 north, range 13 west, Almira township, Benzie county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 75, p. 5, Eff. May 31, 1973.

R 281.710.6 Bronson lake; slow—no wake speed.

Rule 6. On the waters of Bronson lake, sections 33 and 34, T27N, R13W, Almira township, and sections 3 and 4, T26N, R13W, Inland township, Benzie county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 97, p. 13, Eff. Oct. 4, 1978.

Regulation No. 11, Berrien county.

R 281.711.1 Clear lake; hours for high-speed boating and water skiing.

Rule 1. On the waters of Clear lake, township of Buchanan, county of Berrien, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a boat reaches a planing condition, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 57, p. 6, Eff. Feb. 14, 1969.

R 281.711.2 Galien river and New Buffalo harbor, city of New Buffalo; slow—no wake speed; swimming; anchoring or mooring vessel.

Rule 2. (1) On the waters of the Galien river, the channels and canals connected thereto, and the New Buffalo harbor, sections 3, 4, 9, and 10, T8S, R3W, city of New Buffalo, Berrien county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

(2) On the waters of the Galien river, the channels and canals connected thereto, and the New Buffalo harbor, sections 3, 4, 9, and 10, T8S, R3W, city of New Buffalo, Berrien county, it is lawful for a person to swim only in a buoyed area designated as a bathing area, pursuant to section 141 of Act No. 303 of the Public Acts of 1967, being §281.1141 of the Michigan Compiled Laws.

(3) On the navigable waters of the entrance channel to the New Buffalo harbor, section 4, T8S, R3W, city of New Buffalo, Berrien county, it is unlawful to anchor or moor a vessel.

History: 1954 ACS 95, p. 25, Eff. May 6, 1978.

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R 281.711.3 Galien river, portion of; slow—no wake speed.

Rule 3. On that portion of the waters of the Galien river and the channels and canals connected thereto, section 3, T8S, R3W, New Buffalo township, Berrien county, upstream from the New Buffalo city limit to a line extending southeasterly from Sloan lane along the easterly boundary of lot 10, block 24, Lake Michigan Riviera subdivision, to the water's edge, and thence southeasterly to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 96, p. 63, Eff. June 28, 1978.

R 281.711.4 Paw Paw lake, portion of; slow—no wake speed.

Rule 4. On the waters of Paw Paw lake, sections 16 and 21, T3S, R17W, Coloma township, Berrien county, lying south of a line commencing at the easternmost point of Island Number 1 and bearing easterly to the nearest opposite shore, and lying west of a line commencing at the northernmost portion of Island Number 1 and bearing due north to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 101, p. 26, Eff. Dec. 1, 1979.

Regulation No. 12, Branch county.

R 281.712.1 Channels between Coldwater and Marble lakes; slow—no wake speed.

Rule 1. On the waters of the channels connecting Coldwater lake to Long lake, Long lake to Mud lake, Mud lake to Bartholemew lake, Bartholemew lake to Middle lake and Middle lake to Marble lake, all located in Branch county, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 43, p. 7, Eff. Aug. 14, 1965.

R 281.712.2 Channels between Morrison and South lakes; slow—no wake speed.

Rule 2. On the waters of the channels connecting Morrison lake to Randall lake, Randall lake to North lake, North lake (including Long lake) to South lake, all located in Branch county, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 43, p. 7, Eff. Aug. 14, 1965.

R 281.712.3 Vincent lake; slow—no wake speed.

Rule 3. On the waters of Vincent lake, sections 4 and 9, T5S, R6W, Girard township, Branch county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 43, p. 7, Eff. Aug. 14, 1965; 1954 ACS 84, p. 24, Eff. Aug. 29, 1975.

R 281.712.4 Gilead lake; hours for high-speed boating and water skiing.

Rule 4. On the waters of Gilead lake, township of Gilead, county of Branch, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 54, p. 28, Eff. May 15, 1968.

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R 281.712.5 Craig lake, south part, and channel connecting Craig and Morrison lakes; slow—no wake speed.

Rule 5. On the waters of the south part of Craig lake and the channel connecting Craig lake and Morrison lake, section 32, town 5 south, range 6 west, township of Girard, county of Branch, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 5, Eff. May 18, 1970.

R 281.712.6 Lake Lavine; high-speed boating and water skiing hours.

Rule 6. On the waters of Lake Lavine, sections 17, 18, 19 and 20, town 8 south, range 6 west, Kinderhook township, Branch county, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 6, Eff. Jan. 14, 1971.

R 281.712.7 Dragon lake; high-speed boating and water skiing prohibited.

Rule 7. On the waters of Dragon lake, sections 5 and 8, town 8 south, range 6 west, Kinderhook township, Branch county, it shall be unlawful to:

(a) Operate a vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 68, p. 7, Eff. Aug. 26, 1971.

R 281.712.8 Marble lake, south part; slow—no wake speed.

Rule 8. On the waters of Marble lake lying south of townline 7 south, in Algansee township, Branch county, it is unlawful for an operator of a vessel, when within 200 feet of any shoreline or island, to exceed a slow—no wake speed.

History: 1954 ACS 71, p. 16, Eff. Apr. 28, 1972.

R 281.712.9 Lake George; hours for high-speed boating and water skiing.

Rule 9. On the waters of Lake George, sections 16, 21 and 22, town 8 south, range 6 west, Kinderhook township, Branch county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 71, p. 16, Eff. Apr. 28, 1972.

R 281.712.10 Coldwater river in Girard township; slow—no wake speed.

Rule 10. On the waters of the Coldwater river, sections 29 and 30, town 5 south, range 6 west, Girard township, Branch county, from Craig lake upstream to Hodunk road, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

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R 281.712.11 Artificial canal connected to Coldwater river in Girard township; slow—no wake speed.

Rule 11. On the waters of the artificial canal connected to the Coldwater river in section 29, town 5 south, range 6 west, Girard township, Branch county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.712.12 Marble lake, part; slow—no wake speed.

Rule 12. On the waters of Marble lake, section 32, town 6 south, range 5 west, Quincy township, Branch county, west of a line drawn from the point where the east line of lot 21, Like-Dee Paradise subdivision, as extended, meets the water's edge and thence northerly to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 77, p. 9, Eff. Oct. 4, 1973.

R 281.712.13 Coldwater lake; slow—no wake speed zone.

Rule 13. On the waters of Coldwater lake, section 3, T8S, R6W, Kinderhook township, Branch county, west of a line from where the east line of lot 26, Shawnee Shores subdivision no. 1, as extended, intersects the water's edge and thence northerly to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

R 281.712.14 Channels and canals connected to Coldwater lake; slow—no wake speed.

Rule 14. On the waters of the artificial and natural channels and canals connected to Coldwater lake in section 3, T8S, R6W, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

R 281.712.15 Coldwater river and connecting waters; slow—no wake speed zone.

Rule 15. On the waters of Coldwater river and the canals and channels connected thereto, from the Central dam upstream to Coldwater lake, section 27, T7S, R6W, Ovid township, Branch county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 87, p. 9, Eff. Apr. 1, 1976.

R 281.712.18 Hog lake (Michiana); slow—no wake speed.

Rule 18. On the waters of Hog lake, also known as Michiana lake, section 24, T8S, R7W, Gilead township, Branch county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 80, p. 7, Eff. Aug. 17, 1974.

R 281.712.19 Coldwater lake; slow—no wake speed zone.

Rule 19. On that part of the waters of Coldwater lake and the channels and canals connected thereto, easterly from a point where Wayne Beach road as extended intersects the water's edge, to the easternmost point of Iyopawa island and thence southeasterly to the nearest point of land, located in sections 35 and 36, T7S, R6W, Ovid township, Branch county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 87, p. 9, Eff. Apr. 1, 1976.

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R 281.712.20 Coldwater lake; slow—no wake speed zone.

Rule 20. On that part of the waters of Coldwater lake, easterly from a point where Wayne Beach road as extended intersects the water's edge, to the easternmost point of Iyopawa island, and thence southeasterly to the nearest point of land, located in sections 1 and 2, T8S, R6W, Kinderhook township, Branch county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 87, p. 9, Eff. Apr. 1, 1976.

R 281.712.21 Coldwater lake; slow—no wake speed zone.

Rule 21. On that part of the waters of Coldwater lake located along and within a distance of 200 feet either side of a line drawn from the southernmost point of Iyopawa island southwesterly to the nearest point of land, located in section 2, T8S, R6W, Kinderhook township, Branch county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 87, p. 9, Eff. Apr. 1, 1976.

Regulation No. 13, Calhoun county.

R 281.713.1 Nottawasseppee lake.

Rule 1. On the waters of Nottawasseppee lake, Tekonsha township and Fredonia township, county of Calhoun, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 45, p. 5, Eff. Feb. 14, 1966.

R 281.713.2 Little Nottawasseppee lake.

Rule 2. On the waters of Little Nottawasseppee lake, Tekonsha township and Fredonia township, county of Calhoun, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 45, p. 5, Eff. Feb. 14, 1966.

R 281.713.3 Channel connecting Nottawasseppee lake to Little Nottawasseppee lake.

Rule 3. On the waters of the channel connecting Nottawasseppee lake to Little Nottawasseppee lake, Tekonsha township and Fredonia township, county of Calhoun, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 45, p. 5, Eff. Feb. 14, 1966.

R 281.713.4 Clear lake; high-speed boating and water skiing hours.

Rule 4. On the waters of Clear lake, township of Pennfield, county of Calhoun, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

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(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 28, Eff. May 15, 1968.

R 281.713.5 Cobb's channel connected to Goguac lake; slow—no wake speed.

Rule 5. On the waters of Cobb's channel, connected to Goguac lake, section 22, T2S, R8W, Battle Creek township, Calhoun county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 81, p. 23, Eff. Nov. 19, 1974.

R 281.713.6 Welch's channel connected to Goguac lake; slow—no wake speed.

Rule 6. On the waters of Welch's channel, connected to Goguac lake, section 22, T2S, R8W, Battle Creek township, Calhoun county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 81, p. 23, Eff. Nov. 19, 1974.

R 281.713.7 Ackley lake; operation of vessel powered by motor.

Rule 7. On the waters of Ackley lake, sections 2, 3, 10, and 11, T1S, R6W, Convis township, Calhoun county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 100, p. 70, Eff. Aug. 11, 1979.

Regulation No. 14, Cass county.

R 281.714.1 Driskels lake; slow—no wake speed.

Rule 1. On the waters of Driskels lake, sections 34 and 35, town 6 south, range 13 west, Newberg township, Cass county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 77, p. 9, Eff. Oct. 4, 1973.

R 281.714.2 Christiann creek; slow—no wake speed.

Rule 2. On the waters of Christiann creek, sections 1 and 12, town 8 south, range 15 west, township of Ontwa, county of Cass, state of Michigan, from the outlet of Christianna lake downstream to the dam on section 12, town 8 south, range 15 west, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 6, Eff. Jan. 4, 1971.

R 281.714.3 Christianna lake channels and canals; slow—no wake speed.

Rule 3. On all artificial or natural channels and canals connected to Christianna lake, sections 1 and 12, town 8 south, range 15 west, township of Ontwa, county of Cass, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 6, Eff. Jan. 4, 1971.

R 281.714.4 Eagle lake channels and canals; slow—no wake speed.

Rule 4. On all artificial or natural channels and canals connected to Eagle lake, sections 2 and 3, town 8 south, range 15 west, township of Ontwa, county of Cass, state of Michigan, no operator of any motorboat shall exceed a slow—no wake

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speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 6, Eff. Jan. 4, 1971.

R 281.714.5 Coverdale lake; high-speed boating and water skiing prohibited.

Rule 5. On the waters of Coverdale lake, sections 15, 16, 21 and 22, town 8 south, range 13 west, Porter township, Cass county, it shall be unlawful to:

(a) Operate a vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 68, p. 8, Eff. Aug. 28, 1971.

R 281.714.6 Painter lake; hours for high-speed boating and water skiing.

Rule 6. On the waters of Painter lake, section 36, town 7 south, range 15 west, and section 31, town 7 south, range 14 west, Jefferson and Calvin townships, Cass county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.714.7 Channel connecting Painter and Juno lakes; slow—no wake speed.

Rule 7. On the waters of the channel connecting Painter and Juno lakes, section 31, town 7 south, range 14 west, Calvin township, Cass county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.714.8 Canals connected to Juno lake; slow—no wake speed.

Rule 8. On the waters of the canals connected to Juno lake, section 6, town 8 south, range 14 west, Mason township, Cass county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.714.9 Lewis lake; high-speed boating and water skiing prohibited.

Rule 9. On the waters of Lewis lake, sections 13 and 24, town 5 south, range 13 west, Marcellus township, Cass county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.775.2 for that part of Lewis lake which lies in St. Joseph county.)

History: 1954 ACS 72, p. 5, Eff. June 22, 1972.

R 281.714.10 Bair lake; hours for high-speed boating and water skiing.

Rule 10. On the waters of Bair lake, section 34, town 6 south, range 13 west; sections 2 and 3, town 7 south, range 13 west, Porter and Newberg townships, Cass county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

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(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.714.11 Harwood lake; hours for high-speed boating and water skiing.

Rule 11. On the waters of Harwood lake, section 24, town 6 south, range 13 west, Newberg township, Cass county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 77, p. 9, Eff. Oct. 4, 1973.

R 281.714.12 Little Fish lake; hours for high-speed boating and water skiing.

Rule 12. On the waters of Little Fish lake, section 2, town 6 south, range 14 west, Penn township and section 35, town 5 south, range 14 west, Volinia township, Cass county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 78, p. 16, Eff. Jan. 15, 1974.

R 281.714.13 Finch lake; hours for high-speed boating and water skiing.

Rule 13. On the waters of Finch lake, section 7, T5S, R13W, Marcellus township and section 12, T5S, R14W, Volinia township, Cass county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 82, p. 7, Eff. Mar. 14, 1975.

R 281.714.14 Dewey lake; hours for high-speed boating and water skiing.

Rule 14. On the waters of Dewey lake, sections 4, 5, 8 and 9, T5S, R16W, Silver Creek township, Cass county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 82, p. 7, Eff. Feb. 28, 1975.

R 281.714.15 Canal connected to Dewey lake; slow—no wake speed.

Rule 15. On the waters of the canal connected to Dewey lake, sections 8 and 9, T5S, R16W, Silver Creek township, Cass county, west of a line beginning where the east line of lot 22, Sandy Beach Estates subdivision, as extended, intersects the water's edge and thence northwesterly to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 7, Eff. Feb. 28, 1975.

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R 281.714.16 Cable lake; motorboats prohibited.

Rule 16. On the waters of Cable lake, section 5, T5S, R16W, Silver Creek township, Cass county, it is unlawful to operate a motorboat.

History: 1954 ACS 85, p. 5, Eff. Nov. 19, 1975.

R 281.714.18 Mill pond; slow—no wake speed.

Rule 18. On the waters of the Mill pond, sections 32 and 33, T5S, R15W, Wayne township and the city of Dowagiac, Cass county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 93, p. 18, Eff. Sept. 17, 1977.

R 281.714.19 Twin lakes; hours for high-speed boating and water skiing.

Rule 19. On the waters of Twin lakes, sections 15 and 16, T5S, R15W, Wayne township, Cass county, an operator of a motorboat, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, shall not:

(a) Operate the motorboat at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 93, p. 18, Eff. Sept. 17, 1977.

Regulation No. 15, Charlevoix county.

R 281.715.1 Jordan river; motorboats prohibited.

Rule 1. On the waters of the Jordan river in Charlevoix county, upstream from the M-32 highway bridge in section 23, town 32 north, range 7 west, South Arm township, a person shall not operate a motorboat, which means a vessel propelled by machinery.

History: 1954 ACS 69, p. 30, Eff. June 25, 1971.

R 281.715.2 Lake Charlevoix narrows; slow—no wake speed.

Rule 2. On the waters of lake Charlevoix narrows, sections 16, 17, 20, 21, 27 and 28, town 33 north, range 7 west, Eveline township, Charlevoix county, it is unlawful for:

(a) The operator of a vessel less than 26 feet in length to exceed a slow—no wake speed when within 500 feet of any shore, dock or pierhead.

(b) The operator of a vessel 26 feet or more in length to exceed a slow—no wake speed when within 1,000 feet of any shore, dock or pierhead.

History: 1954 ACS 78, p. 16, Eff. Feb. 15, 1974.

Regulation No. 16, Cheboygan county.

R 281.716.1 Silver lake.

Rule 1. On the waters of Silver lake, Wilmont township, county of Cheboygan, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise be assisting in the propulsion of a person on water skis, water sleds, surfboards or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 38, p. 40, Eff. May 15, 1964; 1954 ACS 43, p. 7, Eff. Aug. 14, 1965.

R 281.716.2 Indian river and connected channels and canals; slow—no wake speed and high-speed boating prohibited.

Rule 2. On the waters of the Indian river and connected natural and artificial channels and canals, section 8, town 35 north, range 2 west, Koehler township;

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sections 5, 7, 18 and 19, town 35 north, range 2 west, and section 24, town 35 north, range 3 west, Tuscarora township, Cheboygan county:

(a) Between daybeacons 25 and 40 and between daybeacons 57 and 63, an operator of a vessel shall not:

(i) Operate such vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

(ii) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

(b) Between daybeacons 40 and 57 and between daybeacons 63 and 69, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 31, Eff. June 15, 1971.

R 281.716.3 Cheboygan river; slow—no wake speed.

Rule 3. On the waters of the Cheboygan river, town 37 north, range 1 west and town 38 north, range 1 west, city of Cheboygan, Benton and Inverness townships, Cheboygan county, from outermost end of the west pierhead upstream to Mullet lake, it shall be unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 8, Eff. Aug. 26, 1971.

R 281.716.4 Black river from Meyers creek to Black lake; slow—no wake speed.

Rule 4. On the waters of the Black river, town 36 north, range 1 east, Grant township; town 36 north, range 1 east, Aloha township; and town 37 north, range 1 west, Benton township, Cheboygan county, from the mouth of Meyers creek upstream to Black lake, it shall be unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 8, Eff. Aug. 26, 1971.

R 281.716.5 Cornwall creek flooding; operation of vessel powered by motor.

Rule 5. On the waters of the Cornwall creek flooding, sections 22, 26, and 27, T33N, R1W, Nunda township, Cheboygan county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 96, p. 63, Eff. June 28, 1978.

R 281.716.6 Dog lake flooding; operation of vessel powered by motor.

Rule 6. On the waters of the Dog lake flooding, sections 1, 2, 3, and 11, T33N, R1W, Nunda township, and sections 34 and 35, T34N, R1W, Walker township, Cheboygan county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 96, p. 63, Eff. Sept. 16, 1978.

Regulation No. 17, Chippewa county.

R 281.717.8 Kinross lake; slow—no wake speed.

Rule 8. On the waters of Kinross lake, section 25, town 45 north, range 2 west, Kinross township, Chippewa county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 77, p. 9, Eff. Oct. 4, 1973.

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Regulation No. 18, Clare county.

R 281.718.1 Budd and Little Long lakes.

Rule 1. On the waters of Budd lake and Little Long lake, city of Harrison and township of Hayes, Clare county, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed.

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 43, p. 7, Eff. Aug. 14, 1965.

R 281.718.2 Long lake.

Rule 2. On the waters of Long lake, Frost township, county of Clare, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed.

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 43, p. 8, Eff. Aug. 14, 1965.

R 281.718.3 Blue Gill lake.

Rule 3. On the waters of Blue Gill lake, Frost township, county of Clare, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed.

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 43, p. 8, Eff. Aug. 14, 1965.

R 281.718.4 Silver lake; hours for high-speed boating and water skiing.

Rule 4. On the waters of Silver lake, section 30, town 18 north, range 5 west, township of Lincoln, county of Clare, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 62, p. 5, Eff. May 18, 1970.

R 281.718.5 Shamrock lake and Tobacco river; high-speed boating and water skiing prohibited.

Rule 5. On the waters of Shamrock lake and the Tobacco river, sections 26 and 35, town 17 north, range 4 west, city of Clare, county of Clare, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 63, p. 5, Eff. Aug. 14, 1970.

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R 281.718.6 Bertha lake; slow—no wake speed.

Rule 6. On the waters of Bertha lake, sections 22 and 23, town 18 north, range 5 west, Lincoln township, Clare county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 74, p. 49, Eff. Jan. 23, 1973.

R 281.718.7 Lake George; high-speed boating and water skiing hours.

Rule 7. On the waters of Lake George, sections 8, 16, 17 and 21, town 18 north, range 5 west, Lincoln township, Clare county, it shall be unlawful for the operator of a vessel, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate the vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 68, p. 8, Eff. Aug. 26, 1971.

R 281.718.8 Five lakes; hours for high-speed boating and water skiing.

Rule 8. On the waters of Five lakes, sections 8, 9, and 16, T17N, R4W, Grant township, Clare county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 85, p. 5, Eff. Oct. 15, 1975.

R 281.718.9 Townline lake; channels and canals; slow—no wake speed.

Rule 9. On the waters of the canals and channels connected to Townline lake, section 19, T19N, R3W, Hamilton township, and section 24, T19N, R4W, Hayes township, Clare county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 98, p. 63, Eff. June 30, 1978.

R 281.718.10 Sand, Boathouse, Icehouse, and Haven lakes; channels and canals; slow—no wake speed.

Rule 10. On the waters of the canals and channels connected to Sand, Boathouse, Icehouse, and Haven lakes, section 19, T19N, R3W, Hamilton township, Clare county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 98, p. 64, Eff. June 30, 1978.

R 281.718.11 Arnold lake; hours for high-speed boating and water skiing; slow—no wake speed zone.

Rule 11. (1) On the waters of Arnold lake, section 2, T19N, R4W, Hayes township, Clare county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(2) On the waters of the canals and channels connected to Arnold lake, section 2, T19N, R4W, Hayes township, Clare county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 95, p. 25, Eff. May 25, 1978.

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R 281.718.12 Cranberry lake; hours for high-speed boating and water skiing; slow—no wake speed zone.

Rule 12. (1) On the waters of Cranberry lake, sections 1 and 12, T19N, R4W, Hayes township, Clare county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(2) On the waters of the canals and channels connected to Cranberry lake, sections 1 and 12, T19N, R4W, Hayes township, Clare county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 95, p. 25, Eff. May 25, 1978.

Regulation No. 19, Clinton county.

R 281.719.1 Lake Ovid, Sleepy Hollow state park; operation of vessel powered by motor.

Rule 1. On the waters of Lake Ovid, section 34, T7N, R1W, and sections 3 and 10, T6N, R1W, in Sleepy Hollow state park, Victor township, Clinton county, it is unlawful to operate a vessel powered by a motor, except an electric motor not exceeding 3 horsepower. This rule does not apply to law enforcement officers or department of natural resources personnel pursuing their lawful duties.

History: 1954 ACS 88, p. 49, Eff. Sept. 2, 1976.

Regulation No. 20, Crawford county.

R 281.720.1 Lake Margrethe, channel in Harbor Beach subdivision; speed restriction.

Rule 1. On the waters of the channel located at the northwest corner of lake Margrethe in Harbor Beach subdivision, section 8, town 26 north, range 4 west, locally known as "Northwest Passage," township of Grayling, county of Crawford, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 57, p. 6, Eff. Feb. 14, 1969.

R 281.720.7 Shupac lake; high-speed boating and water skiing prohibited.

Rule 7. On the waters of Shupac lake, sections 7 and 8, town 28 north, range 1 west, Lovells township, Crawford county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 72, p. 5, Eff. June 22, 1972.

R 281.720.8 Bradford lake; hours for high-speed boating and water skiing.

Rule 8. On the waters of Bradford lake, section 6, town 28 north, range 3 west, Maple Forest township, Crawford county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.769.2 for that part of Bradford lake which lies in Otsego county.)

History: 1954 ACS 75, p. 5, Eff. Mar. 27, 1973.

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R 281.720.9 Section One lake; water skiing and high-speed boating prohibited.

Rule 9. On the waters of Section One lake, section 1, town 28 north, range 3 west, Maple Forest township, Crawford county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.769.9 for the regulation covering that part of Section One lake that lies in Otsego county.)

History: 1954 ACS 77, p. 9, Eff. Oct. 4, 1973.

R 281.720.10 Bluegill lake; slow—no wake speed.

Rule 10. On the waters of Bluegill lake, sections 5 and 6, T28N, R3W, Maple Forest township, Crawford county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 7, Eff. Feb. 28, 1975.

R 281.720.11 Horseshoe lake; slow—no wake speed.

Rule 11. On the waters of Horseshoe lake, sections 5 and 6, T28N, R3W, Maple Forest township, Crawford county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 7, Eff. Feb. 28, 1975.

Regulation No. 21, Delta county.

R 281.721.1 Camp 7 lake; hours for high-speed boating and water skiing.

Rule 1. On the waters of Camp 7 lake, township of Garden, county of Delta, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 56, p. 5, Eff. Nov. 14, 1968.

R 281.721.2 Ford river and Green bay adjacent to its mouth; slow—no wake speed.

Rule 2. On the waters of the Ford river, sections 15, 16 and 21, town 38 north, range 23 west, Ford River township, Delta county, from the west line of the southeast ¼ of the northwest ¼, section 15, town 38 north, range 23 west, downstream and 300 feet in any direction from the mouth of the river in Green bay, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 31, Eff. June 15, 1971.

Regulation No. 22, Dickinson county.

R 281.722.1 Norway lake; motorboats prohibited.

Rule 1. On the waters of Norway lake, section 5, T42N, R28W, Felch township, Dickinson county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 7, Eff. Aug. 17, 1974.

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Regulation No. 23, Eaton county.

R 281.723.1 Narrow lake, part; slow—no wake speed zone.

Rule 1. On the waters of Narrow lake, sections 27, 28, 33 and 34, town 1 north, range 4 west, Brookfield township, Eaton county, south of the south line common to the north ½ of the northeast ¼ of the northeast ¼, section 33, and the north ½ of the northwest ¼ of the northwest ¼ of section 34, town 1 north, range 4 west, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 74, p. 49, Eff. Jan. 23, 1973.

Regulation No. 24, Emmet county.

R 281.724.1 Little Traverse bay; slow—no wake speed.

Rule 1. On the waters of Little Traverse bay, adjacent to Little Traverse township, West Traverse township and city of Harbor Springs, Emmet county, within a line from the easternmost point of land in section 24, T35N, R6W, to where Zole street, as extended, intersects the water's edge, it is unlawful for:

(a) The operator of a vessel 26 feet or more in length to exceed a slow—no wake speed.

(b) The operator of a vessel less than 26 feet in length to exceed a slow—no wake speed in either of the following situations:

(i) When within a line from where Judd street as extended meets the water's edge to where Glen drive as extended meets the water's edge adjacent to the city of Harbor Springs.

(ii) When within 200 feet of any shore, dock, pierhead or the outer limits of a designated anchorage.

History: 1954 ACS 54, p. 28, Eff. May 15, 1968; 1954 ACS 82, p. 7, Eff. Jan. 3, 1975.

R 281.724.2 Crooked river; slow—no wake speed.

Rule 2. On the waters of that portion of the Crooked river located in the NW¼ of section 36, and the SE¼ of the NE¼ of section 35, T36N, R4W, Maple River township, Emmet county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 89, p. 7, Eff. Nov. 4, 1976.

Regulation No. 25, Genesee county.

R 281.725.1 Crooked lake; high-speed boating and water skiing prohibited.

Rule 1. On the waters of Crooked lake, township of Fenton, county of Genesee, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 28, Eff. May 15, 1968.

R 281.725.2 Barnum lake; speed restriction.

Rule 2. On the waters of Barnum lake, township of Fenton, county of Genesee, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 56, p. 5, Eff. Nov. 14, 1968.

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R 281.725.3 Pine lake; high-speed boating and water skiing prohibited.

Rule 3. On the waters of Pine lake, sections 28, 29, 32 and 33, town 5 north, range 6 east, township of Fenton, county of Genesee, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 6, Eff. Jan. 14, 1971.

R 281.725.4 Marl lake, part; slow—no wake speed zone.

Rule 4. On the waters of Marl lake, sections 32 and 33, town 5 north, range 6 east, Fenton township, Genesee county, from the bridge at Owen road, southerly for a distance of 1,600 feet, it is unlawful for the operator of a vessel to exceed a slow—no wake speed. (See R 281.747.9 for that part of Marl lake which lies in Livingston county.)

History: 1954 ACS 74, p. 49, Eff. Jan. 23, 1973.

R 281.725.5 McCaslin lake; motorboats prohibited.

Rule 5. On the waters of McCaslin lake, sections 22 and 27, town 5 north, range 5 east, Argentine township, Genesee county, it is unlawful to operate a motorboat.

History: 1954 ACS 74, p. 49, Eff. Jan. 23, 1973.

R 281.725.6 C. S. Mott lake and Flint river; swimming, flotation devices, and motorboats, when prohibited.

Rule 6. On the waters of C. S. Mott lake and Flint river, town 8 north, range 7 east and town 8 north, range 8 east, Genesee and Richfield townships, Genesee county, from the dam on section 21, town 8 north, range 7 east to the dam on sections 2 and 11, town 8 north, range 8 east, it is unlawful to:

(a) Operate an airboat.

(b) Use a pneumatic or inflatable raft or flotation vessel or device in any area restricted to swimming, bathing or wading.

(c) Use a single-celled pneumatic or inflatable raft, flotation vessel or device anywhere.

History: 1954 ACS 74, p. 49, Eff. Jan. 23, 1973.

R 281.725.7 C. S. Mott lake; slow—no wake speed.

Rule 7. On the waters of C. S. Mott lake, sections 10 to 13, 15, 16 and 21, town 8 north, range 7 east, Genesee township, Genesee county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed or tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance, except that an authorized law enforcement officer acting in his official capacity may exceed a slow—no wake speed.

History: 1954 ACS 74, p. 49, Eff. Jan. 23, 1973.

R 281.725.8 Flint river; motorboats prohibited.

Rule 8. On the waters of the Flint river, from a point beginning 1,000 feet west of the east line of sections 12 and 13, town 8 north, range 7 east, Genesee township, Genesee county, and upstream to Holloway dam, sections 2 and 11, town 8 north, range 8 east, Richfield township, Genesee county, it is unlawful to operate a motorboat, except for an authorized law enforcement officer acting in his official capacity.

History: 1954 ACS 74, p. 49, Eff. Jan. 23, 1973.

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R 281.725.9 Shiawassee river; slow—no wake speed zone.

Rule 9. On the waters of the Shiawassee river, section 20, T5N, R6E, village of Linden, Genesee county, it is unlawful, between Linden road and Ripley road, for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

R 281.725.10 Otter lake; hours for high-speed boating and water skiing.

Rule 10. On the waters of Otter lake, section 1, T9N, R8E, Forest township, Genesee county, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance. (For regulation covering that part of Otter lake which lies in Lapeer county, see R 281.744.5.)

History: 1954 ACS 82, p. 8, Eff. Mar. 14, 1975.

R 281.725.11 Silver lake; slow—no wake speed zone.

Rule 11. On that portion of Silver lake, township of Fenton, county of Genesee, including all canals and channels, located in the south ½ of the south ½ of the northwest ¼ and the southwest ¼ of the northeast ¼ of section 33, T5N, R6E, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 89, p. 7, Eff. Oct. 14, 1976.

R 281.725.12 Dollar lake; slow—no wake speed.

Rule 12. On the waters of Dollar (Hibbard) lake and the connected canals and channels, sections 11 and 12, T5N, R6E, Fenton township, Genesee county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 92, p. 11, Eff. July 6, 1977.

R 281.725.13 Lake Ponemah channels and canals; slow—no wake speed.

Rule 13. On the waters of the canals and channels connected to Lake Ponemah, including the channel connecting Lake Ponemah to Squaw lake, sections 15, 21, 22, 27, and 28, T5N, R6E, Fenton township, Genesee county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 92, p. 11, Eff. July 6, 1977.

R 281.725.14 Lake Fenton; slow—no wake speed zone.

Rule 14. Within, and for a distance of 200 feet either side of, the following described waters of Lake Fenton and the canals and channels connected thereto, it is unlawful for the operator of a vessel to exceed a slow—no wake speed; southerly from a line drawn from a point where Enid street, as extended, intersects the water's edge; thence northeasterly to the nearest opposite shore; thence northerly from a point where Haddon street, as extended, intersects the water's edge; thence easterly to the nearest opposite shore, section 13, T5N, R6E, Fenton township, Genesee county.

History: 1954 ACS 93, p. 18, Eff. Nov. 1, 1977.

Regulation No. 26, Gladwin county.

R 281.726.1 Lake Lancelot; slow—no wake speed zone.

Rule 1. On the waters of Lake Lancelot and the canals and channels connected thereto, sections 16, 17, and 20, T20N, R1W, Butman township, Gladwin county, it

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is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 100 feet of any shore, dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when water skiers are being picked up or dropped off if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.

History: 1954 ACS 97, p. 13, Eff. Oct. 24, 1978.

R 281.726.2 Wiggins lake, Grout, and Sage townships; hours for high-speed boating and water skiing.

Rule 2. On the waters of Wiggins lake, T18&19N, R2W, Grout and Sage townships, Gladwin county, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 82, p. 8, Eff. Mar. 14, 1975.

R 281.726.3 Wiggins lake; slow—no wake speed zone.

Rule 3. On the waters of Wiggins lake, sections 27 and 34, T19N, R2W, Sage township, Gladwin county, from Chappel dam to a line from where the west line of lot 20, Level Landing Resort subdivision as extended intersects the water's edge, thence northerly to where the west line of lot 80, Pebble Beach subdivision as extended intersects the water's edge, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 8, Eff. Mar. 14, 1975.

Regulation No. 27, Gogebic county.

R 281.727.1 Imp lake.

Rule 1. On the waters of Imp lake, township of Watersmeet, county of Gogebic, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 50, p. 12, Eff. May 15, 1967.

R 281.727.2 Sylvania recreation area lakes; motorboats prohibited.

Rule 2. On the waters of the following lakes in the Sylvania recreation area, town 44 north, range 39 west; town 44 north, range 40 west; and town 44 north, range 41 west, township of Watersmeet, county of Gogebic, state of Michigan: Banks lake, Clark lake, Corey lake, Cub lake, Daisy lake, Deer Island lake, Dorothy lake, Dream lake, East Bear lake, Elsie lake, Fisher lake, Florence lake, Germain lake, Glimmerglass lake, Golden Silence lake, Hay lake, Helen lake, High lake, Honey lake, Jay lake, Johnston Springs lake, Katherine lake, Kerr lake, Lilius lake, Lois lake, Loon lake, Louise lake, Marsh lake, Moss lake, Mountain lake, Snap Jack lake, Trapper lake, West Bear lake, and Whitefish lake, and those other unnamed lakes located in town 44 north, range 40 west; sections 13 and 24, town 44 north, range 41 west, and those parts of sections 6, 7, 18, 19 and 30, town 44 north, range 39 west, lying west of United States forest road no. 112, no person shall operate any vessel propelled by machinery.

History: 1954 ACS 65, p. 7, Eff. Nov. 3, 1970.

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Regulation No. 28, Grand Traverse county.

R 281.728.1 Rescinded.

History: 1954 ACS 43, p. 8, Eff. Aug. 14, 1965; rescinded 1954 ACS 47, p. 10, Eff. Aug. 14, 1966.

R 281.728.2 Arbutus lakes numbers 2, 3, and 4 (central basins); High, Island, Rennie, and Spider lakes; evening and night operations.

Rule 2. On the waters of Arbutus lakes numbers 2, 3, and 4 (central basins), High lake, Island lake, Rennie lake and Spider lake, Grand Traverse county, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 47, p. 10, Eff. Aug. 14, 1966.

R 281.728.3 Ellis lake, Arbutus lakes numbers 1 and 5, channels; high-speed boating and water skiing prohibited.

Rule 3. On the waters of Ellis lake and on the waters of Arbutus lake number 1 (southernmost basin) to and including the northernmost portion of the channel connecting Arbutus lake number 1 and Arbutus lake number 2, and on the waters of Arbutus lake number 5 (northernmost basin) to and including the southernmost portion of the channel connecting Arbutus lake number 5 and Arbutus lake number 4, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 47, p. 10, Eff. Aug. 14, 1966.

R 281.728.4 Channels separating Arbutus lakes numbers 1 and 2 and Arbutus lakes numbers 5 and 4; slow—no wake speed.

Rule 4. In the defined channels separating Arbutus lakes numbers 1 and 2 and Arbutus lakes numbers 5 and 4 no operator of any vessel shall exceed a slow—no wake speed.

History: 1954 ACS 47, p. 10, Eff. Aug. 14, 1966.

R 281.728.5 Spider lake, southwest part; slow—no wake speed.

Rule 5. On the waters of that part of Spider lake lying southwest of a line drawn from a point where the north section line of section 10, town 26 north, range 10 west, intersects the water's edge on the northwest shore, thence 127° true to where such line intersects the water's edge on the southeast shore of said lake, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 47, p. 10, Eff. Aug. 14, 1966.

R 281.728.6 Spider lake, a northwest part; slow—no wake speed.

Rule 6. On the waters of that part of Spider lake in the northwest ¼ of the northwest ¼ of section 2, town 26 north, range 10 west, lying between the west section line and a north-south line 430 feet east of said west section line, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 47, p. 11, Eff. Aug. 14, 1966.

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R 281.728.7 Spider lake, southeast part; high-speed boating and water skiing prohibited.

Rule 7. On the waters of that part of Spider lake which lie east of a line bearing 180° true from a point of beginning which is described as the westernmost point of land which is 079° true from the point on the western shore of Spider lake where the north section line of section 10, town 26 north, range 10 west, meets the water's edge, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 47, p. 11, Eff. Aug. 14, 1966.

R 281.728.8 Ruth lake; slow—no wake speed.

Rule 8. On the waters of Ruth lake, section 33, T27N, R12W, Long Lake township, Grand Traverse county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 80, p. 7, Eff. Aug. 17, 1974.

R 281.728.10 Cedar Hedge lake; hours for high-speed boating and water skiing.

Rule 10. On the waters of Cedar Hedge lake, sections 4, 5, 8, and 9, T26N, R12W, Green Lake township, Grand Traverse county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 95, p. 26, Eff. June 13, 1978.

Regulation No. 30, Hillsdale county.

R 281.730.1 Long lake; high-speed boating and water skiing hours.

Rule 1. On the waters of Long lake, sections 5, 8 and 17, town 7 south, range 4 west, township of Reading, county of Hillsdale, state of Michigan, no operator of any motorboat during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 6, Eff. Jan. 4, 1971.

R 281.730.2 Long lake, connecting channel; slow—no wake speed.

Rule 2. On the waters of the channel connected to Long lake in the northeast ¼ of section 8, town 7 south, range 4 west, township of Reading, county of Hillsdale, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 7, Eff. Jan. 4, 1971.

R 281.730.3 Carpenter lake; high-speed boating and water skiing prohibited.

Rule 3. On the waters of Carpenter lake, section 5, town 7 south, range 4 west, township of Reading, county of Hillsdale, state of Michigan, no operator of any motorboat shall:

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(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 7, Eff. Jan. 4, 1971.

R 281.730.4 Carpenter and Hemlock lakes, connecting channels; slow—no wake speed.

Rule 4. On the waters of the artificial channels connecting Carpenter lake and Hemlock lake, section 5, town 7 south, range 4 west, township of Reading, county of Hillsdale, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 7, Eff. Jan. 4, 1971.

R 281.730.5 Hemlock lake; high-speed boating and water skiing hours.

Rule 5. On the waters of Hemlock lake, sections 32 and 33, town 6 south, range 4 west, sections 4 and 5, town 7 south, range 4 west, townships of Allen and Reading, county of Hillsdale, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 7, Eff. Jan. 4, 1971.

R 281.730.6 Goose lake; high-speed boating and water skiing hours.

Rule 6. On the waters of Goose lake, sections 17 and 18, town 5 south, range 1 west, Somerset township, Hillsdale county, it shall be unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 68, p. 8, Eff. Aug. 26, 1971.

R 281.730.7 Little Goose lake and canal; slow—no wake speed.

Rule 7. On the waters of Little Goose lake and canal to Goose lake, section 17, town 5 south, range 1 west, Somerset township, Hillsdale county, it shall be unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 8, Eff. Aug. 26, 1971.

R 281.730.8 Bird lake; hours for slow—no wake speed.

Rule 8. On the waters of Bird lake, sections 27, 28, and 34, T7S, R2W, Jefferson township, Hillsdale county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed between the hours of 6:30 p.m. and 10:00 a.m. of the following day.

History: 1954 ACS 97, p. 14, Eff. Oct. 24, 1978.

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Regulation No. 32, Huron county.

R 281.732.1 Sebewaing river and channels and canals; slow—no wake speed.

Rule 1. On the waters of the Sebewaing river and connecting natural and artificial channels and canals, sections 7 and 8, town 15 north, range 9 east, Sebewaing village, Huron county, from the M-25 (Beck street) bridge downstream to the mouth, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 31, Eff. June 15, 1971.

Regulation No. 35, Iosco county.

R 281.735.1 Pine river, Alcona county line to Van Etten lake; speed restriction.

Rule 1. On the waters of Pine river, township of Oscoda, county of Iosco, state of Michigan, from its point of entry at the Iosco-Alcona county line, thence southerly for a distance of approximately 1¼ miles to its mouth at Van Etten lake, no operator of any vessel shall exceed a slow—no wake speed.

History: 1954 ACS 57, p. 6, Eff. Feb. 14, 1969.

R 281.735.2 Little Long lake; high-speed boating and water skiing hours.

Rule 2. On the waters of Little Long lake, sections 5 and 8, town 23 north, range 5 east, township of Plainfield, county of Iosco, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 61, p. 5, Eff. Feb. 16, 1970.

R 281.735.3 AuSable river, lower part; slow—no wake speed.

Rule 3. On the waters of the AuSable river, sections 3, 4 and 10, town 23 north, range 9 east, township of AuSable, and sections 33 and 34, town 24 north, range 9 east, township of Oscoda, county of Iosco, state of Michigan, from its mouth at Lake Huron upstream to the Detroit and Mackinaw railroad bridge, a distance of approximately 2¼ miles, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 63, p. 6, Eff. Aug. 14, 1970.

R 281.735.4 Tawas river in Tawas City and area adjacent to its mouth; slow—no wake speed.

Rule 4. On the waters of the Tawas river, sections 25, 30 and 36, town 22 north, range 7 east, Tawas City, Iosco county, from the north city limits downstream and 300 feet in any direction from the mouth of the river in Tawas bay, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 69, p. 31, Eff. Nov. 1, 1971.

R 281.735.5 Tawas lake; slow—no wake speed zone.

Rule 5. On the waters of the canals connected to Tawas lake and Tawas river in section 19, T22N, R8E, city of East Tawas, Iosco county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 83, p. 13, Eff. Apr. 24, 1975.

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Regulation No. 36, Iron county.

R 281.736.1 Lake Ellen; high-speed boating and water skiing prohibited.

Rule 1. On the waters of lake Ellen, sections 26 and 35, T44N, R31W, Mansfield township, Iron county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 82, p. 8, Eff. Jan. 3, 1975.

R 281.736.2 Spree lake; motorboats prohibited.

Rule 2. On the waters of Spree lake, section 28, T46N, R37W, Iron River township, Iron county, it is unlawful to operate a motorboat.

History: 1954 ACS 81, p. 23, Eff. Nov. 19, 1974.

R 281.736.3 Skyline lake; motorboats prohibited.

Rule 3. On the waters of Skyline lake, sections 28 and 29, T46N, R37W, Iron River township, Iron county, it is unlawful to operate a motorboat.

History: 1954 ACS 81, p. 23, Eff. Nov. 19, 1974.

R 281.736.4 Madelyn lake; motorboats prohibited.

Rule 4. On the waters of Madelyn lake, section 28, Iron River township, Iron county, it is unlawful to operate a motorboat.

History: 1954 ACS 81, p. 23, Eff. Nov. 19, 1974.

R 281.736.5 Killdeer lake; motorboats prohibited.

Rule 5. On the waters of Killdeer lake, section 29, T46N, R37W, Iron River township, Iron county, it is unlawful to operate a motorboat.

History: 1954 ACS 81, p. 23, Eff. Nov. 19, 1974.

R 281.736.6 Long lake; slow—no wake speed.

Rule 6. On the waters of Long lake, sections 16 and 17, T43N, R33W, Crystal Falls township, Iron county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 97, p. 14, Eff. Oct. 24, 1978.

Regulation No. 37, Isabella county.

R 281.737.1 Tower lake.

Rule 1. On the waters of Tower lake, Gilmore township, county of Isabella, state of Michigan, no operator of a motorboat shall:

(a) Exceed a slow—no wake speed.

(b) Have in tow or shall otherwise be assisting in the propulsion of a person on water skis, water sleds, surfboards or other similar contrivance.

History: 1954 ACS 43, p. 8, Eff. Aug. 14, 1965.

R 281.737.2 Sucker lake; slow—no wake speed.

Rule 2. On the waters of Sucker lake, section 18, town 16 north, range 5 west, Gilmore township, Isabella county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 31, Eff. June 15, 1971.

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R 281.737.3 Outlet lake; slow—no wake speed.

Rule 3. On the waters of Outlet lake, section 20, town 16 north, range 5 west, Gilmore township, Isabella county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 31, Eff. June 15, 1971.

R 281.737.4 Bass lake in Gilmore township; slow—no wake speed.

Rule 4. On the waters of Bass lake, section 20, town 16 north, range 5 west, Gilmore township, Isabella county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 32, Eff. June 15, 1971.

R 281.737.5 Dollar lake; slow—no wake speed.

Rule 5. On the waters of Dollar lake, section 20, town 16 north, range 5 west, Gilmore township, Isabella county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 32, Eff. June 15, 1971.

R 281.737.6 Coldwater lake; hours for high-speed boating and water skiing.

Rule 6. On the waters of Coldwater lake, sections 29 to 31, town 15 north, range 5 west, Nottawa township, Isabella county, an operator of a vessel, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall not:

(a) Operate such vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 69, p. 32, Eff. June 15, 1971.

R 281.737.7 Coldwater lake adjacent to outlet; slow—no wake speed.

Rule 7. On the waters of Coldwater lake, section 30, town 15 north, range 5 west, Nottawa township, Isabella county, from its outlet, the Coldwater river, for a distance of 300 feet in any direction, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 32, Eff. June 15, 1971.

Regulation No. 38, Jackson county.

R 281.738.1 Swains lake.

Rule 1. On the waters of Swains lake, Pulaski township, Jackson county, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed.

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 43, p. 8, Eff. Aug. 14, 1965.

R 281.738.2 Round lake.

Rule 2. On the waters of Round lake, Norvell township, county of Jackson, state of Michigan, no operator of any motorboat shall:

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(a) Operate such vessel at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.746.1 for regulation covering the part of this lake lying in Lenawee county and R 281.781.2 for regulation covering the part of this lake lying in Washtenaw county.)

History: 1954 ACS 49, p. 6, Eff. Feb. 14, 1967.

R 281.738.3 Lake Columbia, portion in northerly part of Bay View Shores subdivision; speed restriction.

Rule 3. On the waters of that part of lake Columbia lying north of a line beginning at the southeast corner of lot number 119, thence northeasterly to the northwest corner of lot number 32, Bay View Shores subdivision, sections 22, 23, 26 and 27, town 4 south, range 1 east, township of Columbia, county of Jackson, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 58, p. 16, Eff. May 15, 1969.

R 281.738.4 Lake Columbia, portion in southerly part of Bay View Shores subdivision; speed restriction.

Rule 4. On the waters of that part of lake Columbia lying north of a line beginning at the southwest corner of lot number 188, thence northwesterly to the southernmost corner of lot number 220, in Bay View Shores subdivision, sections 22, 23, 26 and 27, town 4 south, range 1 east, township of Columbia, county of Jackson, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 58, p. 16, Eff. May 15, 1969.

R 281.738.5 Lake Columbia, channel in Royal Shores subdivision; speed restriction.

Rule 5. On the waters of the entire channel in Royal Shores subdivision in the southwest side of lake Columbia, commencing from a line starting at the northeast corner of lot number 45 to the southeast corner of lot number 68, thence northwesterly , thence northeasterly, thence easterly, to a line at the end of the channel, from a point which is the northeast corner of park lot number 2 to the southeast corner of park lot number 3, in Royal Shores subdivision, part of the east ½ of section 33 and part of the west ½ of the southwest ¼ of section 34, town 4 south, range 1 east, township of Columbia, county of Jackson, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 58, p. 16, Eff. May 15, 1969.

R 281.738.6 Lake Columbia, portion in Holiday Shores subdivision; speed restriction.

Rule 6. On the waters of that part of lake Columbia lying northeasterly of a line beginning from the southwest corner of lot number 31, thence southeasterly to the northwest corner of lot number 102, of Holiday Shores subdivision, sections 22, 23, 26 and 27, town 4 south, range 1 east, township of Columbia, county of Jackson, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 58, p. 16, Eff. May 15, 1969.

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R 281.738.7 Lake Columbia, portion in Grand Pointe Shores subdivision; speed restriction.

Rule 7. On the waters of that part of lake Columbia lying south and west of a line beginning from the easterly most corner of lot number 99 extending to the northerly most corner of lot 76 in Grand Pointe Shores subdivision, part of the northeast ¼ of section 33 and part of the southeast ¼ of section 28, town 4 south, range 1 east, township of Columbia, county of Jackson, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 58, p. 17, Eff. May 15, 1969.

R 281.738.8 Big and Little Wolf lakes in Kenwood Shores subdivision, portion of connecting channel; speed restriction.

Rule 8. On that portion of a channel connecting Big Wolf lake and Little Wolf lake lying eastward of a line from the northwest corner of lot number 13 due north to the opposite shore, to a line drawn parallel to and lying 200 feet east of a line from the northeast corner of lot number 1 due north to the opposite shore, all located in Kenwood Shores subdivision, being a part of the southeast quarter of section 19, town 3 south, range 2 east, township of Napoleon, county of Jackson, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 57, p. 6, Eff. Feb. 14, 1969.

R 281.738.9 White lake; hours for high-speed boating and water skiing.

Rule 9. On the waters of White lake, section 29, town 1 south, range 1 east, township of Henrietta, county of Jackson, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 5, Eff. May 18, 1970.

R 281.738.10 Artificial canal connected to Center lake; slow—no wake speed.

Rule 10. On the waters of the artificial canal from Center lake to Bonnymede subdivision, section 22, T3S, R1E, Napoleon township, Jackson county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

Regulation No. 39, Kalamazoo county.

R 281.739.1 Sherman lake; high-speed boating and water skiing hours.

Rule 1. On the waters of Sherman lake, sections 29 and 32, town 1 south, range 9 west, Ross township, Kalamazoo county, it shall be unlawful, during the period from 6:30 p.m. to 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 66, p. 8, Eff. Aug. 26, 1971.

R 281.739.2 Sherman lake canals and channels; slow—no wake speed.

Rule 2. On the waters of those artificial and natural canals and channels attached to Sherman lake, lying in the southwest ¼ of the southwest ¼, section 29

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and southeast ¼ of the southeast ¼, section 30, town 1 south, range 9 west, Ross township, Kalamazoo county, it shall be unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 8, Eff. Aug. 26, 1971.

R 281.739.3 Gull creek; slow—no wake speed.

Rule 3. On the waters of Gull creek, section 19, town 1 south, range 9 west, Ross township, Kalamazoo county, it shall be unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 9, Eff. Aug. 26, 1971.

R 281.739.4 Whites lake, city of Kalamazoo; motorboats prohibited.

Rule 4. On the waters of Whites lake, section 33, town 2 south, range 11 west, city of Kalamazoo, county of Kalamazoo, it is unlawful to operate a motorboat.

History: 1954 ACS 78, p. 16, Eff. Feb. 15, 1974.

R 281.739.5 Lake Hill-N-Brook, city of Kalamazoo, city of Portage; motorboats prohibited.

Rule 5. On the waters of lake Hill-N-Brook, section 31, town 2 south, range 11 west, city of Kalamazoo, section 6, town 3 south, range 11 west, city of Portage, county of Kalamazoo, it is unlawful to operate a motorboat.

History: 1954 ACS 78, p. 16, Eff. Feb. 15, 1974.

R 281.739.6 Long, Portage, and Blue lakes; hours for high-speed boating and water skiing.

Rule 6. On the waters of Long, Portage, and Blue lakes, sections 27, 33, and 34, T2S, R9W, Charleston township, Kalamazoo county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 86, p. 24, Eff. Dec. 24, 1975.

R 281.739.7 Jackson lake, Whitford lake, and Lawler lake; operation of vessel powered by motor.

Rule 7. On the waters of Jackson lake, Whitford lake, and Lawler lake, sections 9 and 10, T2S, R9W, in Fort Custer recreation area, Charleston township, Kalamazoo county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 101, p. 26, Eff. Nov. 3, 1979.

R 281.739.8 Eagle lake; operation of vessel powered by motor.

Rule 8. On the waters of Eagle lake, sections 1 and 2, T2S, R9W, in Fort Custer recreation area, Charleston township, Kalamazoo county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 101, p. 26, Eff. Nov. 3, 1979.

R 281.739.9 Gull lake; watercraft speed limit.

Rule 9. On the waters of Gull lake, sections 1, 2, and 12, T1S, R10W, Richland township, and sections 6, 7, 8, 17, 18, and 20, T1S, R9W, Ross township, Kalamazoo county, it is unlawful at any time to operate a vessel at a speed in

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excess of 40 miles per hour (64 kilometers per hour). (See R 281.708.10 covering that portion of Gull lake which lies in Barry county.)

History: 1954 ACS 97, p. 14, Eff. Nov. 8, 1978.

Regulation No. 40, Kalkaska county.

R 281.740.1 Bear lake.

Rule 1. On the waters of Bear lake, township of Bear Lake, county of Kalkaska, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 47, p. 11, Eff. Aug. 14, 1966.

R 281.740.2 Cub lake.

Rule 2. On the waters of Cub lake, township of Bear Lake, county of Kalkaska, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 47, p. 11, Eff. Aug. 14, 1966.

R 281.740.3 North Blue, Bass, Indian, and Squaw lakes; high-speed boating and water skiing prohibited.

Rule 3. On the waters of North Blue lake, Bass lake, Indian lake and Squaw lake, township of Blue Lake, county of Kalkaska, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 57, p. 7, Eff. Feb. 14, 1969.

R 281.740.4 Big Blue and Starvation lakes; hours for high-speed boating and water skiing.

Rule 4. On the waters of Big Blue lake and Starvation lake, township of Blue Lake, county of Kalkaska, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 57, p. 7, Eff. Feb. 14, 1969.

R 281.740.5 Pickerel lake; hours for high-speed boating and water skiing.

Rule 5. On the waters of Pickerel lake, township of Cold Springs, county of Kalkaska, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

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(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 57, p. 7, Eff. Feb. 14, 1969.

R 281.740.6 Big Twin lake; hours for high-speed boating and water skiing.

Rule 6. On the waters of Big Twin lake, township of Blue Lake and township of Cold Springs, county of Kalkaska, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 57, p. 7, Eff. Feb. 14, 1969.

R 281.740.7 Little Twin lake; high-speed boating and water skiing prohibited.

Rule 7. On the waters of Little Twin lake, township of Blue Lake and township of Cold Springs, county of Kalkaska, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 57, p. 7, Eff. Feb. 14, 1969.

R 281.740.8 Torch river and Torch lake adjacent to its mouth; slow—no wake speed.

Rule 8. On the waters of the Torch river, sections 6, 7 and 18, town 28 north, range 8 west, township of Clearwater, county of Kalkaska, from the south line of section 18, town 28 north, range 8 west, to the north end of the river and for a distance of 300 feet in any direction in Torch lake, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal. (See R 281.705.2 for regulation covering the part of this river and adjacent lake lying in Antrim county.)

History: 1954 ACS 69, p. 32, Eff. June 15, 1971.

R 281.740.9 Manistee lake; canals and channels; slow—no wake speed.

Rule 9. On the waters of the canals and channels connected to Manistee lake, section 34, T28N, R6W, Cold Springs township, Kalkaska county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 97, p. 14, Eff. Oct. 31, 1978.

Regulation No. 41, Kent county.

R 281.741.1 Big Wabasis lake; hours for high-speed boating and water skiing.

Rule 1. On the waters of Big Wabasis lake, T9N, R9W, Oakfield township, Kent county, it is unlawful:

(a) Between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to operate a vessel at high speed or have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

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(b) At any time, to operate a vessel at a speed in excess of 35 miles per hour (56 kilometers per hour).

History: 1954 ACS 82, p. 8, Eff. Feb. 28, 1975.

R 281.741.2 Walden lake; motorboats prohibited.

Rule 2. On the waters of Walden (Waldron) lake, section 5, T6N, R10W, Cascade township, Kent county, it is unlawful to operate a motorboat.

History: 1954 ACS 88, p. 50, Eff. July 23, 1976.

R 281.741.3 Blue lake; hours for slow—no wake speed.

Rule 3. On the waters of Blue lake, sections 10 and 15, T10N, R9W, Spencer township, Kent county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed between the hours of 6:30 p.m. and 10:00 a.m. of the following day.

History: 1954 ACS 97, p. 14, Eff. Sept. 21, 1978.

R 281.741.4 Maston and Muskellonge lakes; hours for slow—no wake speed.

Rule 4. On the waters of Maston and Muskellonge lakes, sections 2, 3, 10, and 11, T10N, R9W, Spencer township, Kent county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed between the hours of 6:30 p.m. and 10:00 a.m. of the following day.

History: 1954 ACS 97, p. 14, Eff. Sept. 21, 1978.

R 281.741.5 Maston and Muskellonge lakes; channel connecting; slow—no wake speed.

Rule 5. On the waters of the channel connecting Maston to Muskellonge lake, sections 10 and 11, T10N, R9W, Spencer township, Kent county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 97, p. 14, Eff. Sept. 21, 1978.

R 281.741.6 Cowan lake; high-speed boating and water skiing prohibited.

Rule 6. On the waters of Cowan lake, section 6, T8N, R9W, Grattan township, and section 31, T9N, R9W, Oakfield township, Kent county, it is unlawful for the operator of a vessel to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 97, p. 15, Eff. Oct. 31, 1978.

R 281.741.7 Lincoln lake; hours for high-speed boating and water skiing.

Rule 7. On the waters of Lincoln lake, sections 15, 22, and 27, T10N, R9W, Spencer township, Kent county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 101, p. 27, Eff. Sept. 28, 1979.

R 281.741.8 Friant lake; high-speed boating and water skiing prohibited.

Rule 8. On the waters of Friant lake, section 15, T10N, R9W, Spencer township, Kent county, it is unlawful for the operator of a vessel to:

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(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 101, p. 27, Eff. Sept. 28, 1979.

R 281.741.9 Cedar lake and connecting waters; high-speed boating and water skiing prohibited.

Rule 9. On the waters of Cedar lake and connecting waters, including the channel between Cedar and Friant lakes, sections 10, 11, 14, and 15, T10N, R9W, Spencer township, Kent county, it is unlawful for the operator of a vessel to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 101, p. 27, Eff. Sept. 28, 1979.

Regulation No. 43, Lake county.

R 281.743.1 Rescinded.

History: 1954 ACS 43, p. 8, Eff. Aug. 14, 1965; rescinded 1954 ACS 69, p. 32, Eff. June 15, 1971.

R 281.743.2 Big Bass, Loon, and Harper lakes.

Rule 2. (1) On the waters of Big Bass lake, sections 27, 33, and 34, T20N, R14W, Elk township, and sections 3 and 4, T19N, R14W, Sauble township, Lake county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(2) On the waters of Loon lake, section 3, T19N, R14W, Sauble township, Lake county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(3) On the waters of Harper lake, sections 10 and 15, T20N, R14W, Elk township, Lake county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 43, p. 8, Eff. Aug. 14, 1965; 1954 ACS 92, p. 11, Eff. July 6, 1977.

R 281.743.3 Big Star lake; hours for high-speed boating and water skiing.

Rule 3. On the waters of Big Star lake, T17N, R14W, Lake township, Lake county, it is unlawful between the hours of 6:30 p.m. to 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 84, p. 94, Eff. Aug. 28, 1975.

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R 281.743.4 Big Star lake, bay, extreme west portion of lake; slow—no wake speed.

Rule 4. On the waters of Big Star lake located in the north ½ of the northwest ¼ lying north and west of a line from the southernmost point of land on the north side of Big Star lake, to the northwest corner of the southeast ¼ of the northwest ¼, section 34, T17N, R14W, Lake township, Lake county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 84, p. 25, Eff. Aug. 28, 1975.

R 281.743.5 Reed lake, channel; Rainbow, Basford, Cecilia, and Gifford lakes; high-speed boating and water skiing prohibited.

Rule 5. On the waters of Reed lake, the channel connecting Reed lake and Rainbow lake, Rainbow lake, Basford lake, Cecilia lake, and Gifford lake, township of Lake, county of Lake, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, a water sled, surfboard, or other similar contrivance.

History: 1954 ACS 58, p. 17, Eff. May 15, 1969.

R 281.743.6 Wolf lake adjacent to shoreline; slow—no wake speed.

Rule 6. On the waters of Wolf lake, sections 26, 27, 34 and 35, town 19 north, range 13 west, Peacock township, Lake county, an operator of a vessel shall not exceed a slow—no wake speed when within a distance of 200 feet from the shoreline except when picking up or dropping off water skiers which shall be on a line perpendicular to the shoreline. Slow—no wake speed means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 32, Eff. June 15, 1971.

R 281.743.7 Wolf lake, southwest portion; slow—no wake speed.

Rule 7. On the waters of Wolf lake lying within the west ½ of the northwest ¼, section 34, town 19 north, range 13 west, Peacock township, Lake county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 32, Eff. June 15, 1971.

R 281.743.8 Pere Marquette river, portion of; operation of vessel powered by motor.

Rule 8. On the waters of the Pere Marquette river, Lake township, Pleasant Plains township, and Sweetwater township, Lake county, it is unlawful to operate a vessel powered by a motor except an electric motor used to propel a vessel in an upstream direction.

History: 1954 ACS 98, p. 64, Eff. Aug. 29, 1978.

R 281.743.9 Idlewild lake; hours for slow—no wake speed.

Rule 9. On the waters of Idlewild lake, sections 5, 6, 7, and 8, T17N, R12W, Yates township, Lake county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed between the hours of 6:30 p.m. and 10:00 a.m. of the following day.

History: 1954 ACS 97, p. 15, Eff. Nov. 8, 1978.

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Regulation No. 44, Lapeer county.

R 281.744.1 Big Fish lake.

Rule 1. (1) On the waters of Big Fish lake, Hadley township, Lapeer county, state of Michigan, no operator of any motorboat shall during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

(2) On the waters of Big Fish lake, Hadley township, Lapeer county, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of more than 2 persons on water skis, water sleds, surfboards or similar contrivances.

History: 1954 ACS 45, p. 5, Eff. Feb. 14, 1966.

R 281.744.2 Davison lake; high-speed boating and water skiing prohibited.

Rule 2. On the waters of Davison lake, Hadley township, Lapeer county, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, a water sled, surfboard, or other similar contrivance. (See R 281.763.11 for regulation covering the part of this lake lying in Brandon township, Oakland county.)

History: 1954 ACS 54, p. 28, Eff. May 15, 1968.

R 281.744.3 Seven ponds, channels connecting Big and Long ponds; Long, Little, Tree Top, and Miller ponds, Seven lakes channels; speed restriction.

Rule 3. On the waters of the 2 channels connecting Big pond and Long pond, on the waters of Long pond, Little pond, Tree Top pond and Miller pond, and on the waters of channels interconnecting the ponds of Seven lakes, township of Dryden, county of Lapeer, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 56, p. 5, Eff. Nov. 14, 1968.

R 281.744.4 Hemmingway lake; hours for high-speed boating and water skiing.

Rule 4. On the waters of Hemmingway lake, section 9, town 9 north, range 9 east, Marathon township, Lapeer county, it is unlawful, during the period from 6:30 p.m. to 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 78, p. 16, Eff. Feb. 15, 1974.

R 281.744.5 Otter lake; hours for high-speed boating and water skiing.

Rule 5. On the waters of Otter lake, sections 6 and 7, T9N, R9E, village of Otter lake and Marathon township, Lapeer county, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance. (For regulation covering that part of Otter lake which lies in Genesee county, see R 281.725.10.)

History: 1954 ACS 82, p. 8, Eff. Mar. 14, 1975.

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R 281.744.6 Pero lake; high-speed boating and water skiing prohibited.

Rule 6. On the waters of Pero lake, section 21, T8N, R9E, Oregon township, Lapeer county, it is unlawful for the operator of a vessel to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 101, p. 27, Eff. Oct. 5, 1979.

Regulation No. 46, Lenawee county.

R 281.746.1 Round lake.

Rule 1. On the waters of Round lake, Cambridge and Franklin townships, county of Lenawee, state of Michigan, no operator of any motorboat shall:

(a) Operate such vessel at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.738.2 for regulation covering the part of this lake lying in Jackson county and R 281.781.2 for regulation covering the part of this lake lying in Washtenaw county.)

History: 1954 ACS 49, p. 6, Eff. Feb. 14, 1967.

R 281.746.2 Allens lake, Kellys lake, Wolf lake, and Meadow lake; night operations.

Rule 2. On the waters of Allens lake, Kellys lake, Wolf lake, and Meadow lake, Cambridge township, Lenawee county, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 52, p. 29, Eff. Nov. 15, 1967.

R 281.746.3 Killarney lake; high-speed boating and water skiing prohibited.

Rule 3. On the waters of Killarney lake, Cambridge township, Lenawee county, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 52, p. 29, Eff. Nov. 15, 1967.

R 281.746.4 Connecting channels; controlled speed zones.

Rule 4. On the waters of the channels connecting Wolf lake and Allens lake, Allens lake and Meadow lake, Meadow lake and Kellys lake, and Kellys lake and Killarney lake, also known as the "River Shannon," no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 52, p. 29, Eff. Nov. 15, 1967.

R 281.746.5 Deep lake; night operations.

Rule 5. On the waters of Deep lake, township of Cambridge, county of Lenawee, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

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(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 53, p. 5, Eff. Feb. 14, 1968.

R 281.746.6 Little Stoney lake; high-speed boating and water skiing prohibited.

Rule 6. On the waters of Little Stoney lake, township of Cambridge, county of Lenawee, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 29, Eff. May 15, 1968.

R 281.746.7 Dewey lake; hours for high-speed boating and water skiing.

Rule 7. On the waters of Dewey lake, section 17, town 5 south, range 2 east, township of Cambridge, county of Lenawee, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 5, Eff. May 18, 1970.

Regulation No. 47, Livingston county.

R 281.747.1 Kent lake.

Rule 1. On the waters of Kent lake, Green Oak township, Livingston county, state of Michigan, the following controls apply:

(a) No person shall operate a motorboat at a speed in excess of 10 statute miles per hour, except an authorized patrol boat or emergency rescue craft.

(b) No person shall operate any watercraft so as to tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance, or permit himself to be so towed.

(c) Rubber rafts and all floating devices other than boats, may be used only in swim areas or special designated areas. (See R 281.763.1 for regulation covering the part of this lake lying in Oakland county.)

History: 1954 ACS 45, p. 5, Eff. Feb. 14, 1966.

R 281.747.2 Big Silver lake.

Rule 2. On the waters of Big Silver lake, township of Putnam, county of Livingston, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.781.1 for regulation covering the part of this lake in Washtenaw county.)

History: 1954 ACS 46, p. 5, Eff. May 14, 1966.

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R 281.747.3 School lake; hours for high-speed boating and water skiing.

Rule 3. On the waters of School lake, township of Brighton, county of Livingston, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 56, p. 5, Eff. Nov. 14, 1968.

R 281.747.4 Lake Shan-gri-la; slow—no wake speed.

Rule 4. On the waters of the lake locally known as Lake Shan-gri-la, in the west ¼ of the southeast ¼ of section 21, town 1 north, range 5 east, Hamburg township, Livingston county, it shall be unlawful for an operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 9, Eff. Aug. 26, 1971.

R 281.747.5 Bass lake canals in Hamburg township; slow—no wake speed.

Rule 5. On the waters of the canals connected to Bass lake, sections 21 and 28, town 1 north, range 5 east, Hamburg township, Livingston county, it shall be unlawful for an operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 68, p. 9, Eff. Aug. 26, 1971.

R 281.747.6 Bass lake; high-speed boating and water skiing prohibited.

Rule 6. On the waters of Bass lake, sections 21, 28 and 29, town 1 north, range 5 east, Hamburg township, Livingston county, it shall be unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 68, p. 9, Eff. Aug. 26, 1971.

R 281.747.7 Whalen lake; high-speed boating and water skiing prohibited.

Rule 7. On the waters of Whalen lake, town 3 north, range 6 east, Hartland township, Livingston county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 72, p. 5, Eff. June 22, 1972.

R 281.747.8 Channel connecting Tamarack lake to Huron river; slow—no wake speed.

Rule 8. On the waters of the channel connecting Tamarack lake and the Huron river, section 31, town 1 north, range 5 east, Hamburg township, Livingston county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.747.9 Canal connected to Marl lake; slow—no wake speed.

Rule 9. On the canal connected to Marl lake in the west ¼ of the northwest ¼ of section 4, town 4 north, range 6 east, Tyrone township, Livingston county, it is

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unlawful for the operator of a vessel to exceed a slow—no wake speed. (See R 281.725.4 for that part of Marl Lake which lies in Genesee county.)

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.747.10 Osborne lake; motorboats prohibited.

Rule 10. On the waters of Osborne lake, section 8, town 2 north, range 6 east, Brighton township, Livingston county, it is unlawful to operate a motorboat.

History: 1954 ACS 78, p. 17, Eff. Jan. 15, 1974.

R 281.747.11 Woodburn lake; high-speed boating and water skiing prohibited.

Rule 11. On the waters of Woodburn lake, sections 25 and 36, town 1 north, range 3 east, Unadilla township, Livingston county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 75, p. 6, Eff. June 1, 1973.

R 281.747.12 Artificial canals connected to Woodburn lake; slow—no wake speed.

Rule 12. On the waters of the artificial canals connected to Woodburn lake in section 36, town 1 north, range 3 east, Unadilla township, Livingston county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 6, Eff. June 1, 1973.

R 281.747.13 Channel connected to Patterson lake; slow—no wake speed.

Rule 13. On the waters of the channel connected to Patterson lake, section 36, town 1 north, range 3 east, Unadilla township, Livingston county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 6, Eff. June 1, 1973.

R 281.747.14 Ore lake, south part; slow—no wake speed.

Rule 14. On the waters of Ore lake, section 13, town 1 north, range 5 east, Hamburg township and section 18, town 1 north, range 6 east, Green Oak township, enclosed by a line from the easternmost point of land in Ore Lake View subdivision, easterly to the westernmost point of lot 32, E. J. Reive's Lakewood subdivision and the bridge connecting E. J. Reive's Lakewood subdivision to Ore Lake Little Farms subdivision, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 78, p. 17, Eff. Jan. 15, 1974.

R 281.747.15 Huron river; slow—no wake speed zone.

Rule 15. On the waters of the Huron river in sections 13, 22, 23, 24, 27, 28, 29, 32, and 33, T1N, R5E, Hamburg township, Livingston county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 84, p. 25, Eff. Aug. 13, 1975.

R 281.747.16 Dunham lake; motorboats prohibited.

Rule 16. On the waters of Dunham lake, sections 13 and 24, T3N, R6E, Hartland township, Livingston county, it is unlawful to operate a motorboat. (See R 281.763.47 for the regulation covering the part of Dunham lake which lies in Oakland county.)

History: 1954 ACS 90, p. 5, Eff. Feb. 25, 1977.

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R 281.747.17 East Crooked lake, West Crooked lake, and Clifford lake; channels and canals; slow—no wake speed.

Rule 17. On the waters of the canals and channels connected to East (Big) Crooked lake, West (Little) Crooked lake, and Clifford (Round) lake, sections 21, 22, 27, and 28, T2N, R5E, Genoa township, Livingston county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 93, p. 18, Eff. Sept. 23, 1977.

R 281.747.18 Chilson creek and Chilson pond; operation of vessel powered by motor.

Rule 18. On the waters of Chilson creek and Chilson pond (impoundment) in Brighton recreation area, section 33, T2N, R5E, Genoa township and section 4, T1N, R5E, Hamburg township, Livingston county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 95, p. 26, Eff. Apr. 13, 1978.

R 281.747.19 Hi-Land lake and connecting canals and channels; prohibited conduct.

Rule 19. On the waters of Hi-Land lake and the canals and channels connected thereto section 32, T1N, R4E, Putnam township, Livingston county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 100 feet of any shore, dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when water skiers are being picked up or dropped off if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state. (See R 281.781.11 covering that portion of Hi-Land lake which lies in Washtenaw county.)

History: 1954 ACS 99, p. 33, Eff. Apr. 28, 1979.

Regulation No. 48, Luce county.

R 281.748.1 Tahquamenon river, Dollarville flooding; high-speed boating and water skiing prohibited.

Rule 1. On the waters of the Tahquamenon river downstream from the bridge on section 21, town 46 north, range 11 west, to the dam on section 28, town 46 north, range 10 west, Columbus and McMillan townships, Luce county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 75, p. 6, Eff. Mar. 27, 1973.

R 281.748.2 Fox river, east branch; slow—no wake speed.

Rule 2. On the waters of the east branch of the Fox river from the M-28 highway bridge on section 33, town 46 north, range 12 west, upstream to the west line of section 18, town 46 north, range 12 west, Columbus township, Luce county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.748.3 Pretty lake; motorboats prohibited.

Rule 3. On the waters of Pretty lake, section 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 7, Eff. Aug. 17, 1974.

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R 281.748.4 Camp Eight lake; motorboats prohibited.

Rule 4. On the waters of Camp Eight lake, section 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 7, Eff. Aug. 17, 1974.

R 281.748.5 Beaverhouse lake; motorboats prohibited.

Rule 5. On the waters of Beaverhouse lake, sections 33 and 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 7, Eff. Aug. 17, 1974.

R 281.748.6 Brush lake; motorboats prohibited.

Rule 6. On the waters of Brush lake, section 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 7, Eff. Aug. 17, 1974.

R 281.748.7 Long lake; motorboats prohibited.

Rule 7. On the waters of Long lake, section 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.748.8 Bullhead lake; motorboats prohibited.

Rule 8. On the waters of Bullhead lake, section 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.748.9 Otter lake; motorboats prohibited.

Rule 9. On the waters of Otter lake, section 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.748.10 Pratt lake; motorboats prohibited.

Rule 10. On the waters of Pratt lake, sections 28 and 33, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.748.11 Sid lake; motorboats prohibited.

Rule 11. On the waters of Sid lake, section 33, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.748.12 Deer lake; motorboats prohibited.

Rule 12. On the waters of Deer lake, sections 27 and 34, T49N, R11W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.748.13 Two Hearted river; motorboats prohibited.

Rule 13. On the waters of the Two Hearted river, from the Reed and Green bridge on county road 410, section 11, T49N, R10W, downstream to the United States fish and wildlife service weir, section 27, T50N, R9W, McMillan township, Luce county, it is unlawful to operate a motorboat.

History: 1954 ACS 87, p. 9, Eff. May 1, 1978.

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R 281.748.14 Two Hearted river; slow—no wake speed zone.

Rule 14. On the waters of the Two Hearted river, from the United States fish and wildlife service weir, downstream to Lake Superior, section 27, T50N, R9W, McMillan township, Luce county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 87, p. 9, Eff. May 1, 1976.

Regulation No. 49, Mackinac county.

R 281.749.1 Pine river in St. Ignace township; slow—no wake speed.

Rule 1. On the waters of the Pine river, sections 3 and 10, town 42 north, range 3 west, St. Ignace township, Mackinac county, from the east line of section 3, town 42 north, range 3 west, downstream to Lake Huron, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 6, Eff. June 1, 1973.

Regulation No. 50, Macomb county.

R 281.750.1 Stoney Creek lake.

Rule 1. On the waters of Stoney Creek lake, township of Washington, county of Macomb, state of Michigan:

(a) Rubber rafts and all floating devices, other than vessels, shall not be used except in swimming areas or special areas designated for their use.

(b) No operator of any vessel shall operate such vessel within areas prohibited to boating.

(c) No operator of any motorboat shall operate such motorboat at a rate of speed greater than 10 statute miles per hour, except an authorized patrol boat or emergency rescue craft.

(d) No operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.763.2 for regulation covering the part of this lake in Oakland county.)

History: 1954 ACS 45, p. 6, Eff. Feb. 14, 1966.

R 281.750.2, R 281.750.3 Rescinded.

History: 1954 ACS 46, p. 5, Eff. May 14, 1966; rescinded 1954 ACS 65, p. 8, Eff. Nov. 3, 1970.

R 281.750.4 Lake St. Clair; certain creeks, channels, and canals.

Rule 4. On the waters of Crepeau (also known as Frog) creek, Marsac creek, and all natural and artificial channels and canals in the city of New Baltimore, county of Macomb, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 50, p. 12, Eff. May 15, 1967.

R 281.750.5 Lake St. Clair; certain channel.

Rule 5. On the waters of that portion of lake St. Clair, city of New Baltimore, county of Macomb, state of Michigan, in a channel which extends 500 feet southerly from a harbor entrance at 42°40′21″ north latitude and 82°44′17″ west longitude, no operator of any motorboat shall exceed a slow—no wake speed. (See R 281.774.1 and R 281.774.2 for regulation covering the part of this lake lying in St. Clair county.)

History: 1954 ACS 50, p. 12, Eff. May 15, 1967.

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R 281.750.6 Lake St. Clair and channels; slow—no wake speed.

Rule 6. On those waters of lake St. Clair and natural and artificial canals connecting thereto, city of St. Clair Shores, county of Macomb, state of Michigan, west of a line from a point beginning at the city line between St. Clair Shores and Grosse Pointe Shores at the water's edge, thence 070° true 1,300 feet, thence 340° true 6,500 feet, thence 000° true 7,500 feet more or less to a point due east of the foot of 11 Mile road, thence 270° true 1,300 feet more or less to the shoreline of Lake St. Clair at the foot of said 11 Mile road being latitude 42°29.8′ N, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 54, p. 29, Eff. May 15, 1968.

R 281.750.7 Salt river, Vase creek, and certain channels and canals in Chesterfield township; slow—no wake speed.

Rule 7. On the waters of the Salt river, Vase creek and all channels and canals on private claims 146, 147, 192, 193 and 342, sections 22, 23, 26, 27, 28 and 29, town 3 north, range 14 east, township of Chesterfield, county of Macomb, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 64, p. 21, Eff. Nov. 6, 1970.

R 281.750.8 South channel; moorage restriction.

Rule 8. On the waters of South channel, between lots 233 and 234, Anchor Bay Shores subdivision, private claims 146 and 147, town 3 north, range 14 east, township of Chesterfield, county of Macomb, state of Michigan, no vessel shall be moored, docked or anchored or shall in any other manner obstruct or restrict the passage of other vessels, for a distance of 350 feet inland from Lake St. Clair.

History: 1954 ACS 64, p. 21, Eff. Nov. 6, 1970.

R 281.750.9 Clinton river; speed restriction.

Rule 9. On the waters of Lake St. Clair and the Clinton river, Harrison township, Macomb county, state of Michigan, westward from the easterly ends of the Clinton river breakwater, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 65, p. 8, Eff. Nov. 3, 1970.

R 281.750.10 Black creek and channels and canals in Harrison township; speed restriction.

Rule 10. On the waters of Black creek and the natural and artificial channels and canals in Harrison township, Macomb county, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 65, p. 8, Eff. Nov. 3, 1970.

Regulation No. 51, Manistee county.

R 281.751.1 Manistee harbor, entrance channel; speed restriction.

Rule 1. On the waters of the Manistee harbor entrance channel eastward from a line connecting the south breakwater light and the north pierhead light to the easterly end of the channel at Manistee lake, city of Manistee, county of Manistee,

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state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 57, p. 8, Eff. Feb. 14, 1969.

R 281.751.2 Crystal lake; motorboats prohibited.

Rule 2. On the waters of Crystal lake, sections 12 and 14, town 21 north, range 12 west, township of Norman, county of Manistee, state of Michigan, no person shall operate any vessel propelled by machinery.

History: 1954 ACS 62, p. 6, Eff. May 18, 1970.

R 281.751.3 Arcadia lake or Bar lake north portion and canals and channels; slow—no wake speed.

Rule 3. On the waters of Arcadia lake, also known as Bar lake, sections 10, 15 and 16, town 24 north, range 16 west, township of Arcadia, county of Manistee, state of Michigan, north of a line running due west from the southernmost point of Point Arcadia subdivision to the opposite shore and on the canals and channels connected to Arcadia lake, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 61, p. 5, Eff. Feb. 16, 1970.

R 281.751.4 Glovers lake; slow—no wake speed.

Rule 4. On the waters of Glovers lake, sections 12 and 13, town 24 north, range 15 west, Pleasanton township, Manistee county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.751.5 Manistee river; slow—no wake speed.

Rule 5. On the waters of the Manistee river, Manistee township, Manistee county, from 100 feet east of the highway bridge, section 31, town 22 north, range 16 west, downstream to 100 feet below the railroad bridge on section 36, town 22 north, range 17 west, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.751.6 Healy lake; slow—no wake speed.

Rule 6. On the waters of Healy lake, sections 33 and 34, T24N, R14W, Springdale township, Manistee county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 95, p. 26, Eff. May 6, 1978.

R 281.751.7 Portage lake entrance channel; slow—no wake speed.

Rule 7. On the waters of the entrance channel to Portage lake from Lake Michigan, and for a distance of 200 feet in any direction from the channel in Portage lake, sections 32 and 33, T23N, R16W, Onekama township, Manistee county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 100, p. 70, Eff. June 27, 1979.

Regulation No. 52, Marquette county.

R 281.752.1 Big Shag lake; hours for high-speed boating and water skiing.

Rule 1. On the waters of Big Shag lake, sections 25, 26 and 36, town 45 north,

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range 26 west, township of Forsyth, county of Marquette, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 6, Eff. May 18, 1970.

R 281.752.2 Big Shag lake, portion; slow—no wake speed.

Rule 2. On those waters of Big Shag lake lying between a line from the northwest corner of government lot no. 4 running southwest to the opposite shore and a line 500 feet south therefrom and running from the most easterly to the west shore of the lake, section 25, town 45 north, range 26 west, township of Forsyth, county of Marquette, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 6, Eff. May 18, 1970.

R 281.752.3 Little Shag lake; hours for high-speed boating and water skiing.

Rule 3. On the waters of Little Shag lake, section 31, town 45 north, range 25 west, and section 36, town 45 north, range 26 west, township of Forsyth, county of Marquette, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 6, Eff. May 18, 1970.

R 281.752.4 Johnson lake; hours for high-speed boating and water skiing.

Rule 4. On the waters of Johnson lake, section 27, town 45 north, range 25 west, township of Forsyth, county of Marquette, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 6, Eff. May 18, 1970.

R 281.752.5 Bass lake; hours for high-speed boating and water skiing.

Rule 5. On the waters of Bass lake, sections 30 and 31, town 45 north, range 24 west, and sections 25 and 36, town 45 north, range 25 west, township of Forsyth, county of Marquette, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 6, Eff. May 18, 1970.

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R 281.752.6 Farmers lake; hours for high-speed boating and water skiing.

Rule 6. On the waters of Farmers lake, sections 16 and 17, town 45 north, range 24 west, township of Forsyth, county of Marquette, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 7, Eff. May 18, 1970.

R 281.752.7 Clear lake; motorboats prohibited.

Rule 7. On the waters of Clear lake, section 5, town 48 north, range 29 west, Champion township, Marquette county, it is unlawful to operate a motorboat.

History: 1954 ACS 75, p. 6, Eff. May 31, 1973.

R 281.752.8 Greenwood reservoir; high-speed boating and water skiing prohibited.

Rule 8. On the waters of the Greenwood reservoir, T47N, R28W, Ely township, Marquette county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 81, p. 24, Eff. Nov. 19, 1974.

Regulation No. 53, Mason county.

R 281.753.1 Hamlin lake; south bayou, controlled speed zone.

Rule 1. On those waters of Hamlin lake, Hamlin township, county of Mason, state of Michigan, commonly known as south bayou, lying easterly of the Lake Shore Drive bridge over said bayou, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 51, p. 7, Eff. Aug. 15, 1967.

R 281.753.2 Hamlin lake; middle bayou, controlled speed zone.

Rule 2. On those waters of Hamlin lake, Hamlin township, county of Mason, state of Michigan, commonly known as middle bayou, lying easterly of the Lake Shore drive bridge over said bayou, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 51, p. 7, Eff. Aug. 15, 1967.

R 281.753.3 Hamlin lake; Indian Pete's bayou, controlled speed zone.

Rule 3. On those waters of Hamlin lake, Hamlin township, county of Mason, state of Michigan, commonly known as Indian Pete's bayou, lying southerly of a line commencing at a point on the south shore of Upper Hamlin lake where the west section line of Section 2, T19N, R18W intersects the water's edge, thence due east to the east shore of said bayou, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 51, p. 7, Eff. Aug. 15, 1967.

R 281.753.4 Hamlin lake; Sable river outlet, controlled speed zone.

Rule 4. On the waters of the Sable river outlet of Hamlin lake, Hamlin township, Mason county, state of Michigan, lying westerly of a line beginning at

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the extreme northernmost point of Block 151 of the map of the Second Addition to Piny Ridge resort, a subdivision of the NW¼ of the NE¼ and S½ of the NE¼ of section 20, T19N, R18W, as recorded in Liber 1 of Plats, page 45, Mason county records, thence across a bay of Hamlin lake on bearing 356° true a distance of 650 feet more or less to a point on a small island in Sable river outlet of Hamlin lake, thence continuing on said bearing 356° true, a distance of 650 feet more or less to the southerly extremity of a larger island in said Sable river outlet located easterly and adjacent to Lost lake in the southerly portion of section 17, T19N, R18W, thence along the easterly shoreline of said island a distance of 1,140 feet more or less to the northerly extremity of said island, thence northwesterly from said point a distance of 425 feet more or less to the northerly end of a foot bridge located along the east side of Lost lake at the outlet of said lake on the west shoreline of Hamlin lake, at a point near the east and west quarter line of section 17, T19N, R18W, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 51, p. 7, Eff. Aug. 15, 1967.

R 281.753.5 Gun lake; night operations.

Rule 5. On the waters of Gun lake, townships of Sherman and Freesoil, county of Mason, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 52, p. 29, Eff. Nov. 15, 1967.

R 281.753.6 Ford lake; high-speed boating and water skiing hours.

Rule 6. On the waters of Ford lake, township of Sheridan, county of Mason, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 29, Eff. May 15, 1968.

R 281.753.7 Long lake; hours for high-speed boating and water skiing.

Rule 7. On the waters of Long lake, township of Branch, county of Mason, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 58, p. 17, Eff. May 15, 1969.

R 281.753.8 Pere Marquette river, from Indian bridge downstream; slow—no wake speed.

Rule 8. On the waters of the Pere Marquette river, Mason county, from Indian bridge, section 23, town 18 north, range 16 west, downstream to the north line of section 26, town 18 north, range 18 west, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 78, p. 17, Eff. Feb. 15, 1974.

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Regulation No. 54, Mecosta county.

R 281.754.1 Round, Mecosta, and Blue lakes; hours for high-speed boating and water skiing.

Rule 1. On the waters of Round lake, lake Mecosta, and Blue lake, township of Morton, county of Mecosta, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 58, p. 17, Eff. May 15, 1969.

R 281.754.2 Channels connected to Round, Mecosta, and Blue lakes; speed restriction.

Rule 2. On the waters of all natural and artificial channels connected to Round lake, lake Mecosta, and Blue lake, township of Morton, county of Mecosta, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 58, p. 17, Eff. May 15, 1969.

R 281.754.3 Muskegon river, west branch, from Blue lake downstream to dam; speed restriction.

Rule 3. On the waters of the west branch of the Muskegon river, township of Morton, county of Mecosta, state of Michigan, from Blue lake downstream to the dam located in section 17 of the township of Morton, a distance of approximately ¼ mile, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 58, p. 17, Eff. May 15, 1969.

R 281.754.4 Horsehead lake; high-speed boating and water skiing hours.

Rule 4. On the waters of Horsehead lake, sections 15, 16, 21, 22, 27 and 28, town 15 north, range 8 west, township of Martiny, county of Mecosta, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 7, Eff. Jan. 14, 1971.

R 281.754.5 Little John Brown lake; slow—no wake speed.

Rule 5. On the waters of Little John Brown lake, sections 15 and 22, town 15 north, range 8 west, township of Martiny, county of Mecosta, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 7, Eff. Jan. 14, 1971.

R 281.754.6 Big John Brown lake; high-speed boating and water skiing hours.

Rule 6. On the waters of Big John Brown lake, section 15, town 15 north, range 8 west, township of Martiny, county of Mecosta, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

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(a) Operate such motorboat at high speed, which means a speed at or above which a boat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 7, Eff. Jan. 14, 1971.

R 281.754.7 School Section lake; hours for high-speed boating and water skiing.

Rule 7. On the waters of School Section lake, sections 16 and 21, town 14 north, range 8 west, Morton township, Mecosta county, an operator of a vessel, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall not:

(a) Operate such vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 69, p. 33, Eff. June 15, 1971.

R 281.754.8 School Section lake canals; slow—no wake speed.

Rule 8. On the waters of the canals connected to School Section lake, in the southwest ¼ of section 16, town 14 north, range 8 west, Morton township, Mecosta county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 33, Eff. June 15, 1971.

R 281.754.9 Alma lake; motorboats prohibited.

Rule 9. On the waters of Alma lake, section 32, town 16 north, range 9 west, Grant township, Mecosta county, it is unlawful to operate a motorboat.

History: 1954 ACS 75, p. 6, Eff. Mar. 27, 1973.

R 281.754.10 Pretty lake; hours for high-speed boating and water skiing.

Rule 10. On the waters of Pretty lake, sections 11 and 14, town 15 north, range 8 west, Martiny township, Mecosta county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 76, p. 6, Eff. June 20, 1973.

R 281.754.11 Lake 28; slow—no wake speed.

Rule 11. On the waters of Lake 28, sections 28 and 33, T15N, R7W, Sheridan township, Mecosta county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 95, p. 28, Eff. May 25, 1978.

Regulation No. 55, Menominee county.

R 281.755.1 Long lake.

Rule 1. On the waters of Long lake, Lake township, Menominee county, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965.

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R 281.755.2 Lake Ann.

Rule 2. On the waters of Lake Ann, Lake township, Menominee county, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 45, p. 6, Eff. Feb. 14, 1968.

Regulation No. 56, Midland county.

R 281.756.1 Sanford lake, portion of; slow—no wake speed.

Rule 1. On that portion of the waters of Sanford lake, sections 13 and 24, T15N, R1W, village of Sanford and Jerome township, Midland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 200 feet of the US-10 highway bridge.

History: 1954 ACS 99, p. 33, Eff. May 30, 1979.

R 281.756.2 Sanford lake, connecting waters; slow—no wake speed.

Rule 2. On the waters of Black creek, section 11, T15N, R1W, Jerome township, Midland county, from the West River road bridge downstream to Sanford lake, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 99, p. 33, Eff. May 30, 1979.

Regulation No. 58, Monroe county.

R 281.758.1 Swan creek and canals and channels; slow—no wake speed.

Rule 1. On the waters of Swan creek and all natural and artificial canals and channels in the village of Estral Beach, Monroe county, it shall be unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 66, p. 9, Eff. Aug. 26, 1971.

R 281.758.2 Allen's Cove creek and canals and channels; slow—no wake speed.

Rule 2. On the waters of Allen's Cove creek and all natural and artificial canals and channels in the city of Luna Pier, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 7, Eff. Mar. 27, 1973.

R 281.758.3 Halfway creek, North Maumee bay, Shantee creek, Ottawa river; slow—no wake speed.

Rule 3. It is unlawful for the operator of a vessel to exceed a slow—no wake speed on the following described waters in Erie township, Monroe county:

(a) On the waters of Halfway creek, sections 32 to 34, T8S, R8E, from the Sudar avenue bridge, easterly to a line drawn from the easternmost point of land in the northwest ¼ of section 34 to the southernmost point of Indian island thence to the easternmost point of land in the southeast ¼ of section 34.

(b) On the waters of Shantee creek, section 4, T9S, R8E, and section 33, T8S, R8E, from the Michigan-Ohio state line to its confluence with Halfway creek.

(c) On the waters of the Ottawa river, section 3, T9S, R8E, and section 34, T8S, R8E from the Michigan-Ohio state line to its confluence with North Maumee bay.

History: 1954 ACS 79, p. 18, Eff. Apr. 17, 1974.

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R 281.758.4 River Raisin, portion of; slow—no wake speed.

Rule 4. On the waters of that portion of the river Raisin from dam no. 6 located easterly of the Detroit and Toledo shoreline railroad trestle, downstream to the west boundary of the river Raisin harbor survey line, city of Monroe, Monroe county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 86, p. 24, Eff. Jan. 22, 1976.

R 281.758.5 Sandy creek bay and north lagoon; slow—no wake speed.

Rule 5. On the waters of Sandy creek bay and the north lagoon at Sterling state park, section 35, T6S, R9E, and section 2, T7S, R9E, Frenchtown township, Monroe county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 89, p. 7, Eff. Oct. 28, 1976.

R 281.758.6 LaPlaisance creek; slow—no wake speed.

Rule 6. On the waters of LaPlaisance creek, Monroe township, Monroe county, from LaPlaisance road, private claims 416 and 423, downstream to the outer pierhead, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 78, p. 17, Eff. Feb. 15, 1974.

Regulation No. 59, Montcalm county.

R 281.759.1 Little Whitefish lake.

Rule 1. On the waters of Little Whitefish lake, Pierson township, county of Montcalm, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 45, p. 6, Eff. Feb. 14, 1966.

R 281.759.2 Bass lake and Rock lake.

Rule 2. On the waters of Bass lake and Rock lake, Richland township, Montcalm county, state of Michigan, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 46, p. 5, Eff. May 14, 1966.

R 281.759.3 Fifth lake; high-speed boating and water skiing hours.

Rule 3. On the waters of Fifth lake, township of Belvidere, county of Montcalm, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 29, Eff. May 15, 1968.

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R 281.759.4 First to Fourth lakes, and Sixth lake; high-speed boating and water skiing prohibited.

Rule 4. On the waters of First lake, Second lake, Third lake, Fourth lake, and Sixth lake, township of Belvidere, county of Montcalm, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 29, Eff. May 15, 1968.

R 281.759.5 Channels; slow—no wake speed.

Rule 5. On the waters of the channel connecting First lake and Second lake, the channel connecting Third lake and Fourth lake, and the channel connecting Fourth lake and Fifth lake, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 54, p. 29, Eff. May 15, 1968.

R 281.759.6 Muskelonge lake; high-speed boating and water skiing hours.

Rule 6. On the waters of Muskelonge lake, township of Maple Valley, county of Montcalm, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 29, Eff. May 15, 1968.

R 281.759.7 Horseshoe lake; hours for high-speed boating and water skiing.

Rule 7. On the waters of Horseshoe lake, township of Belvidere, county of Montcalm, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 57, p. 8, Eff. Feb. 14, 1969.

R 281.759.8 Lake Montcalm; hours for high-speed boating and water skiing.

Rule 8. On the waters of Lake Montcalm, section 31, T12N, R7W, Belvidere township, and section 6, T11N, R7W, Douglass township, Montcalm county, it is unlawful, between the hours of 6:30 p.m. to 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 96, p. 64, Eff. July 26, 1978.

R 281.759.9 Little Bass (Dawes) lake; slow—no wake speed.

Rule 9. On the waters of Little Bass (Dawes) lake, sections 9 and 16, T12N, R7W, Belvidere township, Montcalm county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 96, p. 64, Eff. June 30, 1978.

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R 281.759.10 Rosa (Roosa) lake; slow—no wake speed.

Rule 10. On the waters of Rosa (Roosa) lake, section 25, T10N, R7W, Sidney township, Montcalm county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 97, p. 15, Eff. Nov. 8, 1978.

Regulation No. 60, Montmorency county.

R 281.760.1 Little Wolf lake; high-speed boating and water skiing hours.

Rule 1. On the waters of Little Wolf lake, township of Albert, county of Montmorency, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.768.3 for regulation covering the part of this lake lying in Oscoda county.)

History: 1954 ACS 54, p. 30, Eff. May 15, 1968.

R 281.760.2 Ess (S) lake; hours for high-speed boating and water skiing.

Rule 2. On the waters of Ess (S) lake, sections 31 and 32, T32N, R4E, and sections 5 and 6, T31N, R4E, Montmorency and Hillman townships, Montmorency county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 84, p. 25, Eff. July 17, 1975.

R 281.760.6 Rescinded.

History: 1954 ACS 69, p. 33, Eff. Nov. 1, 1971; rescinded 1954 ACS 76, p. 6, Eff. June 20, 1973.

R 281.760.7 Thunder Bay river from Rush lake to dam; high-speed boating and water skiing prohibited.

Rule 7. On the waters of the Thunder Bay river, sections 21, 28, 29 and 32, town 32 north, range 3 east, Montmorency township, Montmorency county, from Rush lake downstream to the dam in section 21, town 32 north, range 3 east, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 69, p. 33, Eff. Nov. 1, 1971.

R 281.760.8 Rush lake; hours for high-speed boating and water skiing, slow—no wake speed.

Rule 8. On the waters of Rush lake, sections 31 and 32, town 32 north, range 3 east, Montmorency township, Montmorency county, it is unlawful:

(a) Between the hours of 6:30 p.m. to 10:00 a.m. of the following day, to:

(i) Operate a vessel at high speed, or

(ii) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance, or

(b) At anytime when within 150 feet of a shoreline, to exceed a slow—no wake speed, except when picking up or dropping off water skiers, so long as such

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operation is otherwise conducted with due regard for the safety of persons and property and in a line perpendicular to the shoreline insofar as it is reasonably possible.

History: 1954 ACS 76, p. 6, Eff. June 20, 1973.

R 281.760.9 Gee lake; slow—no wake speed.

Rule 9. On the waters of Gee lake, sections 18 and 19, town 29 north, range 1 east, Albert township, Montmorency county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed. (See R 281.769.6 for that part of Gee lake lying in Otsego county.)

History: 1954 ACS 76, p. 6, Eff. July 14, 1973.

R 281.760.10 Grass lake; slow—no wake speed zone.

Rule 10. On the waters of Grass lake, section 25, T32N, R3E, Montmorency township, Montmorency county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 2,500 feet of the lake level control dam.

History: 1954 ACS 79, p. 19, Eff. May 29, 1974.

R 281.760.11 Thunder Bay river; high-speed boating and water skiing prohibited.

Rule 11. On the waters of Thunder Bay river in sections 11, 12, 13, and 14, T30N, R2E, Briley township, Montmorency county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 86, p. 25, Eff. Jan. 22, 1976.

R 281.760.12 Crooked lake and Crooked creek; high-speed boating and water skiing prohibited.

Rule 12. On the waters of Crooked lake and Crooked creek, in sections 13, 23, 24, and 26, T30N, R2E, Briley township, Montmorency county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 86, p. 25, Eff. Jan. 22, 1976.

Regulation No. 61, Muskegon county.

R 281.761.1 Mona lake.

Rule 1. On the waters of Mona lake, Norton township, county of Muskegon, state of Michigan:

(a) Boats shall be operated at a slow—no wake speed through the channel extending from the Lake Harbor bridge to Lake Michigan.

(b) No operator of any motorboat shall operate his craft in the area from the northeastern abutment of the Lake Harbor Road bridge due east 100 feet, thence northeastward at a distance of 100 feet from and parallel to the north shore of Mona lake for a distance of 1,025 feet, thence 000 degrees true to the northwestern shoreline of Mona lake.

History: 1954 ACS 45, p. 6, Eff. Feb. 14, 1966.

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R 281.761.2 Channel from Bear lake to Muskegon lake.

Rule 2. On the waters of Bear lake channel from its head at Bear lake to its mouth at Muskegon lake, a distance of approximately 2,250 feet, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 49, p. 6, Eff. Feb. 14, 1967.

R 281.761.3 Wolf lake; hours for high-speed boating and water skiing.

Rule 3. On the waters of Wolf lake, township of Eggleston, county of Muskegon, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 56, p. 5, Eff. Nov. 14, 1968.

R 281.761.4 Duck lake, west portion; slow—no wake speed.

Rule 4. On the waters of Duck lake, section 24, town 11 north, range 18 west, and sections 18 and 19, town 11 north, range 17 west, township of Fruitland, county of Muskegon, state of Michigan, west of a line beginning at a point on the north shore of Duck lake, 800 feet west of Lamos road and running due south to the opposite shore, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 61, p. 5, Eff. Feb. 16, 1970.

R 281.761.5 Hart lake; hours for high-speed boating and water skiing.

Rule 5. On the waters of Hart lake, sections 30 and 31, town 12 north, range 15 west, Holton township, Muskegon county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 72, p. 5, Eff. June 22, 1972.

R 281.761.6 Stahl bayou; slow—no wake speed.

Rule 6. On the waters of Stahl bayou, section 35, T9N, R16W, Fruitport township, Muskegon county, north of the south line of section 35, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 97, p. 15, Eff. Oct. 31, 1978.

Editor's note: Former R 281.761.6, deriving from 1954 ACS 77, p. 9, and containing similar provisions, expired by its own terms on January 1, 1977.

R 281.761.7 Spring lake; slow—no wake speed.

Rule 7. On the waters of Spring lake, section 36, T9N, R16W, village of Fruitport, Fruitport township, Muskegon county, it is unlawful for:

(a) The operator of a vessel less than 26 feet in length to exceed a slow—no wake speed when within 200 feet of any shore, dock, or pierhead.

(b) The operator of a vessel 26 feet or more in length to exceed a slow—no wake speed. (See R 281.770.9 covering that portion of Spring lake which lies in Ottawa county.)

History: 1954 ACS 97, p. 15, Eff. Oct. 31, 1978.

Editor's note: Former R 281.761.7, deriving from 1954 ACS 77, p. 9, and containing similar provisions, expired by its own terms on January 1, 1977.

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Regulation No. 62, Newaygo county.

R 281.762.1 Bills, Sand, Baptist, Nichols, and Brookings lakes.

Rule 1. On the waters of Bills lake, Sand lake, Baptist lake, Nichols lake and Brookings lake, Newaygo county, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965; rescinded as to Nichols lake 1954 ACS 72, p. 5, Eff. June 22, 1972.
Editor's note: This rule has been superseded as to Brookings lake (name changed to Woodland lake) by R 281.762.17.

R 281.762.2 Diamond, Pickerel and Kimball lakes.

Rule 2. On the waters of Diamond lake, Pickerel lake and Kimball lake, Newaygo county, state of Michigan, no operator of any motorboat shall during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed.

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965.

R 281.762.3 Channel between Sylvan and Emerald lakes.

Rule 3. On the waters of the channel connecting Sylvan lake to Emerald lake, Newaygo county, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965.

R 281.762.4 Brooks lake, bay in government lot 3 of section 28 of Brooks township; speed restriction.

Rule 4. On the waters of that bay of Brooks lake which is entirely in government lot 3 of section 28, Brooks township, county of Newaygo, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 54, p. 30, Eff. May 15, 1968.

R 281.762.5 Brooks lake, portion in section 29 of Brooks township; high-speed boating and water skiing prohibited.

Rule 5. On the waters of Brooks lake which are in section 29 of Brooks township, county of Newaygo, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 30, Eff. May 15, 1968.

R 281.762.6 Brooks lake, portion; high-speed boating and water skiing prohibited.

Rule 6. On the waters of that bay of Brooks lake which is partially in government lot 1 of section 28, Brooks township, county of Newaygo, state of Michigan, which lie north of a line drawn due east to the opposite shore of said bay from a permanent metal monument near the west shore of said bay, said monument being 93.33 feet south of the common line between lots 12 and 13 of Joan park, a subdivision of government lot 1, section 28, Brooks township, a plat

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recorded in Newaygo county liber 4 of plats, page 30, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 30, Eff. May 15, 1968.

R 281.762.7 Robinson lake; hours for high-speed boating and water skiing.

Rule 7. On the waters of Robinson lake, township of Sherman, county of Newaygo, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 57, p. 8, Eff. Feb. 14, 1969.

R 281.762.8 Ryerson lake; hours for high-speed boating and water skiing.

Rule 8. On the waters of Ryerson lake, sections 27, 28, 33 and 34, town 13 north, range 13 west, township of Sherman, county of Newaygo, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 7, Eff. May 18, 1970.

R 281.762.9 Martin lake; high-speed boating and water skiing prohibited.

Rule 9. On the waters of Martin lake, section 19, town 13 north, range 14 west, Dayton township, Newaygo county, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 8, Eff. Jan. 14, 1971.

R 281.762.10 Knowles lake; high-speed boating and water skiing prohibited.

Rule 10. On the waters of Knowles lake, section 19, town 13 north, range 14 west, Dayton township, Newaygo county, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 66, p. 8, Eff. Jan. 14, 1971.

R 281.762.11 Nichols lake; hours for high-speed boating and water skiing.

Rule 11. On the waters of Nichols lake, sections 31 and 32, town 16 north, range 13 west, Lilley township, and sections 5 and 6, town 15 north, range 13 west,

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Merrill township, Newaygo county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 72, p. 5, Eff. June 22, 1972.

R 281.762.12 Lilley lake; high-speed boating and water skiing prohibited.

Rule 12. On the waters of Lilley lake, sections 11 and 12, town 16 north, range 13 west, Lilley township, Newaygo county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.762.13 Sisson lake; high-speed boating and water skiing prohibited.

Rule 13. On the waters of Sisson lake, section 11, town 16 north, range 13 west, Lilley township, Newaygo county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.762.14 Woodland lake, certain bays; slow—no wake speed.

Rule 14. On the bays of Woodland lake, sections 9 and 10, T15N, R13W, Merrill township, Newaygo county, hereinafter described, it is unlawful for the operator of a vessel to exceed a slow—no wake speed west of a line beginning where the west line of lot 1, block 234, Woodland Park subdivision, as extended, intersects the water's edge and thence to where the west line of lot 2, block 16, Woodland Park subdivision, intersects the water's edge.

History: 1954 ACS 82, p. 9, Eff. Mar. 14, 1975.

R 281.762.15 East lake; high-speed boating and water skiing prohibited.

Rule 15. On the waters of East lake, section 10, T15N, R13W, Merrill township, Newaygo county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 82, p. 9, Eff. Mar. 14, 1975.

R 281.762.16 East lake channel; slow—no wake speed.

Rule 16. On the waters of the channel from East lake to Woodland lake, section 10, T15N, R13W, Merrill township, Newaygo county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 9, Eff. Mar. 14, 1975.

R 281.762.17 Woodland lake; hours for high-speed boating and water skiing.

Rule 17. On the bays of Woodland lake, sections 9 and 10, T15N, R13W, Merrill township, Newaygo county, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

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(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 82, p. 9, Eff. Mar. 14, 1975.

R 281.762.18 Bitely lake; hours for high-speed boating and water skiing.

Rule 18. On the waters of Bitely lake, sections 28, 33, and 34, T16N, R13W, Lilley township, Newaygo county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 101, p. 27, Eff. Sept. 20, 1979.

R 281.762.19 Pettibone lake; hours for high-speed boating and water skiing.

Rule 19. On the waters of Pettibone lake, sections 13 and 24, T16N, R13W, Lilley township, Newaygo county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 101, p. 27, Eff. Sept. 20, 1979.

R 281.762.20 Mill lake; operation of vessel powered by motor.

Rule 20. On the waters of Mill lake, section 27, T16N, R13W, Lilley township, Newaygo county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 101, p. 27, Eff. Sept. 20, 1979.

Regulation No. 63, Oakland county.

R 281.763.1 Kent lake.

Rule 1. On the waters of Kent lake, Milford township and Lyon township, Oakland county, state of Michigan, the following controls apply:

(a) No person shall operate a motorboat at a speed in excess of 10 statute miles per hour, except an authorized patrol boat or emergency rescue craft.

(b) No person shall operate any watercraft so as to tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance, or permit himself to be so towed.

(c) Rubber rafts and all floating devices other than boats, may be used only in swim areas or special designated areas. (See R 281.747.1 for regulation covering the part of this lake in Livingston county.)

History: 1954 ACS 45, p. 7, Eff. Feb. 14, 1966.

R 281.763.2 Stoney Creek lake.

Rule 2. On the waters of Stoney Creek lake, township of Oakland, county of Oakland, state of Michigan:

(a) Rubber rafts and all floating devices, other than vessels, shall not be used except in swimming areas or special areas designated for their use.

(b) No operator of any vessel shall operate such vessel within areas prohibited to boating.

(c) No operator of any motorboat shall operate such motorboat at a rate of speed greater than 10 statute miles per hour, except an authorized patrol boat or emergency rescue craft.

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(d) No operator of any motor boat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.750.1 for regulation covering the part of this lake in Macomb county.)

History: 1954 ACS 45, p. 7, Eff. Feb. 14, 1966.

R 281.763.3 Big and Little School Lot lakes and connecting channel; high-speed boating and water skiing prohibited.

Rule 3. On the waters of Big School Lot lake, Little School Lot lake and the waters of the channel connecting Big School Lot lake and Little School Lot lake, section 16, town 4 north, range 7 east, township of Rose, county of Oakland, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 62, p. 7, Eff. May 18, 1970.

R 281.763.4 Taylor lake; slow—no wake speed.

Rule 4. On the waters of Taylor lake, section 8, town 4 north, range 7 east, Rose township, Oakland county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 33, Eff. June 15, 1971.

R 281.763.5 Orchard lake, part adjoining public access site; slow—no wake speed.

Rule 5. On the waters of Orchard lake, sections 14 and 15, town 2 north, range 9 east, city of Orchard Lake Village, Oakland county, for a distance of 200 feet in any direction from the state public access site, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.763.6 Walnut lake; high-speed boating and water skiing hours.

Rule 6. On the waters of Walnut lake, sections 24 and 25, town 2 north, range 9 east, West Bloomfield township, Oakland county, an operator of a vessel, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall not:

(a) Operate such vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 69, p. 33, Eff. June 15, 1971.

R 281.763.7 Buckhorn lake, north basin; slow—no wake speed.

Rule 7. On the waters of Buckhorn lake, sections 21 and 22, town 4 north, range 7 east, Rose township, Oakland county, north of Demode road, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 7, Eff. May 31, 1973.

R 281.763.8 Fish lake; slow—no wake speed.

Rule 8. On the waters of Fish lake, section 32, town 4 north, range 7 east, Rose township, Oakland county, it shall be unlawful for an operator of a vessel to

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exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 68, p. 9, Eff. Aug. 26, 1971.

R 281.763.9 Lake Orion; prohibited conduct.

Rule 9. (1) On the waters of Lake Orion and the canals and channels connected thereto, sections 2, 3, 10, and 11, T4N, R10E, village of Lake Orion and Orion township, Oakland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 100 feet of any shore, dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when water skiers are being picked up or dropped off if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.

(2) On the waters of Lake Orion and the canals and channels connected thereto, sections 2, 3, 10, and 11, T4N, R10E, village of Lake Orion and Orion township, Oakland county, it is unlawful, during the period of 1 hour after sunset to 1 hour before sunrise, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(3) On the waters of Lake Orion and the canals and channels connected thereto, sections 2, 3, 10, and 11, T4N, R10E, village of Lake Orion and Orion township, Oakland county, it is unlawful at any time to operate a vessel at a speed in excess of 40 miles per hour (64 kilometers per hour).

History: 1954 ACS 46, p. 5, Eff. May 14, 1966; 1954 ACS 97, p. 15, Eff. Sept. 23, 1978.

R 281.763.10 Little Square lake.

Rule 10. On the waters of that portion of Square lake lying west of a railroad bridge and locally known as Little Square lake, township of Orion, county of Oakland, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 51, p. 8, Eff. Aug. 15, 1967.

R 281.763.11 Davison lake; high-speed boating and water skiing prohibited.

Rule 11. On the waters of Davison lake, Brandon township, Oakland county, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance. (See R 281.744.2 for regulation covering the part of this lake lying in Hadley township, Lapeer county.)

History: 1954 ACS 54, p. 30, Eff. May 15, 1968.

R 281.763.12 Pontiac lake; speed restriction and distance from shoreline and islands.

Rule 12. On the waters of Pontiac lake, township of White Lake and township of Waterford, county of Oakland, state of Michigan, persons operating vessels shall, in addition to the restrictions set forth in section 18 of Act No. 245 of the Public Acts of 1959, as amended, maintain a distance of 100 feet from the shoreline and from any island, except when proceeding at a slow—no wake speed and except when picking up or dropping off water skiers, so long as such

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operation is otherwise conducted with due regard to the safety of persons and property and in a line perpendicular to the shoreline insofar as it is reasonably possible, and in accordance with the laws of this state.

History: 1954 ACS 54, p. 30, Eff. May 15, 1968.

R 281.763.13 Pontiac lake; water skiers' distances.

Rule 13. Persons navigating, steering or controlling themselves while being towed on water skis, water sleds, surfboards or similar contrivances shall maintain a distance of 100 feet from the shoreline and from any island, raft, buoyed or occupied bathing area or vessel moored or at anchor, except when being picked up or dropped off, so long as such operation is otherwise conducted with due regard to the safety of persons and property and in a line perpendicular to the shoreline insofar as it is reasonably possible, and in accordance with the laws of this state.

History: 1954 ACS 54, p. 31, Eff. May 15, 1968.

R 281.763.14 Voorheis lake; high-speed boating and water skiing hours.

Rule 14. On the waters of Voorheis lake, township of Orion, county of Oakland, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

History: 1954 ACS 54, p. 31, Eff. May 15, 1968.

R 281.763.15 Heron lake; motorboats prohibited.

Rule 15. On the waters of Heron lake, sections 28 and 29, town 5 north, range 8 east, Groveland township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 69, p. 33, Eff. Nov. 1, 1971.

R 281.763.16 Seymour lake; slow—no wake speed.

Rule 16. On the waters of Seymour lake, sections 27, 34 and 35, town 5 north, range 9 east, Brandon township, Oakland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 7, Eff. May 31, 1973.

R 281.763.17 Cass lake, Gerundegut bay and canals and channels; slow—no wake speed.

Rule 17. On the waters of Gerundegut bay of Cass lake and connected artificial and natural canals and channels, section 3, town 2 north, range 9 east, West Bloomfield township, and sections 33 and 34, town 3 north, range 9 east, Waterford township, Oakland county, beginning at a line running from the point where Algonquin drive intersects the westerly shore and thence northeasterly to the nearest shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 7, Eff. June 1, 1973.

R 281.763.18 Cedar Island lake, certain bays; slow—no wake speed.

Rule 18. On the bays of Cedar Island lake, town 3 north, range 8 east, White Lake township, Oakland county, hereinafter described, it is unlawful for the operator of a vessel to exceed a slow—no wake speed:

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(a) Southerly and westerly of a line beginning where the east line of lot 42, Golden Shores subdivision no. 1, intersects the water's edge and thence to the point where the north line of lot 54, Cedar View subdivision, as extended, intersects the water's edge.

(b) Westerly of a line beginning where the north line of lot 26, Cedar View subdivision, as extended, intersects the water's edge and thence south to the nearest opposite shore.

(c) Southerly from a line beginning where the north line of lot 9, Golden Shores subdivision no. 1, intersects the water's edge and thence westerly to where the north line of lot 39, Golden Shores subdivision no. 1, intersects the water's edge.

(d) Westerly of a line beginning where the east line of lot 75, Cedar Shores subdivision no. 2, intersects the water's edge and thence northerly to the point where the north line of lot 93, Cedar Shores subdivision no. 3, intersects the water's edge.

(e) North of a line beginning where the east line of lot 54, Cedar Shores subdivision no. 1, intersects the water's edge and thence westerly to the point where the south line of lot 23, Cedar Shores subdivision, intersects the water's edge.

(f) West of a line beginning where the west line of lot 148, Cedar Shores subdivision no. 4, meets the most easterly point of lot 139, Cedar Shores subdivision no. 4.

History: 1954 ACS 76, p. 6, Eff. June 20, 1973.

R 281.763.19 Huron river adjacent to Cedar Island lake; slow—no wake speed.

Rule 19. On the waters of the Huron river, section 26, town 3 north, range 8 east, White Lake township, Oakland county, from the north line of lot 139, Cedar Shores subdivision no. 4, downstream to the east line of lot 148, Cedar Shores subdivision no. 4, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 76, p. 7, Eff. June 20, 1973.

R 281.763.20 Morris lake; motorboats prohibited.

Rule 20. On the waters of Morris lake, section 22, town 2 north, range 9 east, West Bloomfield township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 76, p. 7, Eff. June 20, 1973.

R 281.763.21 Simpson lake; motorboats prohibited.

Rule 21. On the waters of Simpson lake, section 23, town 2 north, range 9 east, West Bloomfield township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 78, p. 17, Eff. Feb. 15, 1974.

R 281.763.22 Brookfield pond; motorboats prohibited.

Rule 22. On the waters of Brookfield pond, section 13, town 2 north, range 9 east, West Bloomfield township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 78, p. 17, Eff. Feb. 15, 1974.

R 281.763.23 Moon lake; motorboats prohibited.

Rule 23. On the waters of Moon lake, sections 13 and 14, town 2 north, range 9 east, West Bloomfield township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 78, p. 17, Eff. Feb. 15, 1974.

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R 281.763.24 Woodpecker lake; motorboats prohibited.

Rule 24. On the waters of Woodpecker lake, sections 20 and 21, town 2 north, range 9 east, West Bloomfield township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 78, p. 17, Eff. Feb. 15, 1974.

R 281.763.25 Deer lake; hours for high-speed boating and water skiing.

Rule 25. On the waters of Deer lake, sections 19 and 30, T4N, R9E, Independence township, Oakland county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 79, p. 19, Eff. Apr. 17, 1974.

R 281.763.26 Deer lake; limitation of water skiers.

Rule 26. On the waters of Deer lake, sections 19 and 30; T4N, R9E, Independence township, Oakland county, it is unlawful to tow or otherwise assist in the propulsion of more than 2 persons at 1 time on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 79, p. 19, Eff. Apr. 17, 1974.

R 281.763.27 Deer lake; slow—no wake speed zone.

Rule 27. On the waters of Deer lake, sections 19 and 30, T4N, R9E, Independence township, Oakland county, north of the south line of the northwest ¼ of the southeast ¼, section 19, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 19, Eff. Apr. 17, 1974.

R 281.763.28 Wolverine lake; slow—no wake speed.

Rule 28. On the waters of Wolverine lake, sections 22, 23, 27 and 28, T2N, R8E, village of Wolverine lake, Oakland county, northerly of a line from where the west line of lot 23, Stuarts Oak Island subdivision, as extended, intersects the water's edge and thence to the northernmost point of land in outlot "a," Paynes Manor subdivision, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.763.29 Artificial channels and canals, Wolverine lake; slow—no wake speed.

Rule 29. On the waters of all artificial channels and canals connected to Wolverine lake, sections 22, 23, 27 and 28, T2N, R8E, village of Wolverine lake, Oakland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.763.30 Wolverine lake; hours for high-speed boating and water skiing.

Rule 30. On the waters of Wolverine lake, sections 22, 23, 27 and 28, T2N, R8E, village of Wolverine lake, Oakland county, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, it is unlawful to:

(a) Operate a vessel at high speed, or

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(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.763.31 Wolverine lake; airboats prohibited.

Rule 31. On the waters of Wolverine lake, sections 22, 23, 27 and 28, T2N, R8E, village of Wolverine lake, Oakland county, it is unlawful to operate an airboat.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.763.32 Wolverine lake; slow—no wake speed.

Rule 32. On the waters of Wolverine lake, sections 22, 23, 27 and 28, T2N, R8E, village of Wolverine lake, Oakland county, between a line from where the south line of lot 49, Schulte-Hoffman Spring Park subdivision, as extended, intersects the water's edge and thence easterly to where the north line of lot 20, Shankin's Wolverine Lake subdivision, as extended, meets the water's edge and a line from where the south line of lot 39, Schulte-Hoffman Spring Park subdivision intersects the water's edge and thence easterly to where the south line of lot 12, Shankin's Wolverine Lake subdivision, as extended, meets the water's edge, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 80, p. 8, Eff. Aug 17, 1974.

R 281.763.33 Loon lake; hours for high-speed boating and water skiing.

Rule 33. On the waters of Loon lake, section 29, T2N, R8E, city of Wixom, Oakland county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard or other similar contrivance.

History: 1954 ACS 79, p. 19, Eff. Apr. 17, 1974.

R 281.763.35 Lower Straits lake canal; slow—no wake speed.

Rule 35. On the waters of the canal connected to Lower Straits lake, section 11, T2N, R8E, Commerce township, Oakland county, north and west of a line from where the south line of lot 29, North Shores subdivision as extended intersects the water's edge and thence easterly to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 9, Eff. Mar. 14, 1975.

R 281.763.36 Cass lake; high-speed boating and water skiing controls.

Rule 36. On the waters of Cass lake, Oakland county, it is unlawful:

(a) Between the hours of 6:30 p.m. and 10:00 a.m. of the following day to operate a vessel at high speed or have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or similar contrivance.

(b) At any time to operate a vessel in excess of 50 miles per hour (80 kilometers per hour).

(c) To operate a vessel in excess of a slow—no wake speed in the northerly tip of Coles bay, Waterford township, within the north half of the northwest quarter of the southwest quarter of section 35, T3N, R9E.

History: 1954 ACS 84, p. 25, Eff. July 17, 1975.

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R 281.763.37 Wolverine lake; slow—no wake speed.

Rule 37. On the waters of Wolverine lake, sections 22, 23, 27 and 28, T2N, R8E, village of Wolverine lake, Oakland county, it is unlawful to anchor or moor a vessel at a distance greater than 100 feet from any shore, between 11:00 a.m. and 7:30 p.m. during June, July and August, except in those parts of Wolverine lake established as slow—no wake zones.

History: 1954 ACS 80, p. 8, Eff. Aug. 17, 1974.

R 281.763.38 Middle Straits lake, Commerce township; slow—no wake speed.

Rule 38. On the waters of Middle Straits lake, in sections 12 and 13, T2N, R8E, Commerce township, Oakland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 80, p. 9, Eff. Aug. 17, 1974.

R 281.763.39 Middle Straits lake, West Bloomfield township.

Rule 39. (1) On that part of the waters of Middle Straits lake located in section 7, T2N, R9E, West Bloomfield township, Oakland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

(2) On that part of the waters of Middle Straits lake located in sections 17 and 18, T2N, R9E, West Bloomfield township, Oakland county, it is unlawful on Sundays, memorial day, independence day, and labor day, except between the hours of 10:00 a.m. and 6:30 p.m., to:

(a) Operate a vessel at high speed.

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 80, p. 9, Eff. Aug. 17, 1974; 1954 ACS 86, p. 25, Eff. Dec. 24, 1975.

R 281.763.40 Lakeville lake; prohibited conduct.

Rule 40. (1) On the waters of Lakeville lake and the canals and channels connected thereto, sections 21, 22, 26, 27, and 28, T5N, R11E, Addison township, Oakland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 100 feet of any shore, dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when water skiers are being picked up or dropped off if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.

(2) On the waters of Lakeville lake and the canals and channels connected thereto, sections 21, 22, 26, 27, and 28, T5N, R11E, Addison township, Oakland county, it is unlawful, during the period of 1 hour after sunset to 1 hour before sunrise, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(3) On the waters of Lakeville lake, sections 21, 22, 26, 27, and 28, T5N, R11E, Addison township, Oakland county, it is unlawful at any time to operate a vessel at a speed in excess of 35 miles per hour (56 kilometers per hour).

History: 1954 ACS 91, p. 24, Eff. June 8, 1977.

R 281.763.41 Parke lake; high-speed boating and water skiing prohibited.

Rule 41. On the waters of Parke lake, section 20, T4N, R9E, Independence township and village of Clarkston, Oakland county, it is unlawful to:

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(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 84, p. 25, Eff. July 17, 1975.

R 281.763.42 Davis lake; motorboats prohibited.

Rule 42. On the waters of Davis lake, section 28, T5N, R10E, Oxford township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 86, p. 25, Eff. Jan. 22, 1976.

R 281.763.43 Commerce lake; channels and canals; slow—no wake speed.

Rule 43. On the waters of the canals and channels connected to Commerce lake, sections 10, 15, and 16, T2N, R8E, Commerce township, Oakland county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 92, p. 11, Eff. Sept. 13, 1977.

R 281.763.44 Big Seven and Dickinson lakes, Seven Lakes state park; operation of vessel powered by motor.

Rule 44. On the waters of Big Seven and Dickinson lakes, sections 19, 29, and 30, T5N, R7E, Seven Lakes state park, Holly township, Oakland county, it is unlawful to operate a vessel powered by a motor, except an electric motor which does not exceed 3 horsepower. This rule does not apply to law enforcement officers or department of natural resources personnel pursuing their lawful duties.

History: 1954 ACS 89, p. 7, Eff. Dec. 10, 1976.

R 281.763.45 Little Seven, Spring, Mud, and Gravel Pit lakes, Seven Lakes state park; operation of vessel powered by motor.

Rule 45. On the waters of Little Seven, Spring, Mud, and Gravel Pit lakes, sections 19, 29, and 30, T5N, R7E, Seven Lakes state park, Holly township, Oakland county, it is unlawful to operate a vessel powered by a motor. This rule does not apply to law enforcement officers or department of natural resources personnel pursuing their lawful duties.

History: 1954 ACS 89, p. 8, Eff. Dec. 10, 1976.

R 281.763.46 Mitchell lake; operation of vessel powered by motor.

Rule 46. On the waters of Mitchell lake, sections 4 and 9, T5N, R7E, Holly township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 96, p. 64, Eff. July 28, 1978.

R 281.763.47 Dunham lake; motorboats prohibited.

Rule 47. On the waters of Dunham lake, sections 18 and 19, T3N, R7E, Highland township, Oakland county, it is unlawful to operate a motorboat. (See R 281.747.16 for the regulation covering the part of Dunham lake which lies in Livingston county.)

History: 1954 ACS 90, p. 5, Eff. Feb. 25, 1977.

R 281.763.48 Sears lake; motorboats prohibited.

Rule 48. On the waters of Sears lake, sections 5 and 8, T2N, R7E, Milford township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 90, p. 6, Eff. Feb. 23, 1977.

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R 281.763.49 Cranberry lake; motorboats prohibited.

Rule 49. On the waters of Cranberry lake, section 17, T4N, R9E, Independence township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 91, p. 24, Eff. June 7, 1977.

R 281.763.50 Bogie lake; operation of vessel powered by motor.

Rule 50. On the waters of Bogie lake, section 33, T3N, R8E, White Lake township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 99, p. 33, Eff. Apr. 28, 1979.

R 281.763.51 Lake Angela; operation of vessel powered by motor.

Rule 51. On the waters of Lake Angela, section 16, T1N, R7E, Lyon township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 97, p. 16, Eff. Nov. 8, 1978.

R 281.763.52 Round lake; motorboats prohibited.

Rule 52. On the waters of Round lake, section 26, T5N, R11E, Addison township, Oakland county, it is unlawful to operate a motorboat.

History: 1954 ACS 94, p. 22, Eff. Mar. 16, 1978.

R 281.763.53 Round lake; operation of vessel powered by motor.

Rule 53. On the waters of Round lake, section 2, T4N, R9E, Independence township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 101, p. 28, Eff. Nov. 14, 1979.

R 281.763.54 Valley lake and Wildwood lake; operation of vessel powered by motor.

Rule 54. On the waters of Valley lake and Wildwood lake, sections 28 and 33, T5N, R8E, in Holly recreation area, Groveland township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 93, p. 19, Eff. Dec. 8, 1977.

R 281.763.55 Manitou lake; operation of vessel powered by motor.

Rule 55. On the waters of Manitou lake, sections 34 and 35, T5N, R10E, Oxford township, and sections 2 and 3, T4N, R10E, Orion township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 99, p. 34, Eff. Apr. 28, 1979.

R 281.763.56 Cross lake; operation of vessel powered by motor.

Rule 56. On the waters of Cross lake, section 5, T2N, R9E, West Bloomfield township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 99, p. 34, Eff. Apr. 28, 1979.

R 281.763.57 Orchard lake; watercraft speed limit.

Rule 57. On the waters of Orchard lake, sections 9, 10, 11, 14, and 15, T2N, R9E, city of Orchard Lake village, Oakland county, it is unlawful at any time to operate a vessel in excess of 40 miles per hour (64 kilometers per hour).

History: 1954 ACS 100, p. 70, Eff. July 24, 1979.

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R 281.763.59 Upper Trout lake and Lower Trout lake; operation of vessel powered by motor.

Rule 59. On the waters of Upper Trout lake and Lower Trout lake, sections 24 and 25, T4N, R10E, in Bald Mountain recreation area, Orion township, Oakland county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 95, p. 26, Eff. Apr. 13, 1978.

Regulation No. 64, Oceana county.

R 281.764.1 McLaren lake, southwest portion; high-speed boating and water skiing prohibited.

Rule 1. On all those waters of McLaren lake lying westerly of a line 200 feet east and parallel with the section line common to sections 11 and 12, T14N, R15W, township of Newfield, county of Oceana, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 54, p. 31, Eff. May 15, 1968.

R 281.764.2 McLaren lake, northwest bay; high-speed boating and water skiing prohibited.

Rule 2. On all those waters of McLaren lake lying westerly of a line commencing at a point at the water's edge of said lake approximately 462 feet south of the center post of section 1, T14N, R15W, thence southwesterly to the opposite shore of a bay at a point on the southeast and west ⅛ line of section 1, T14N, R15W, township of Newfield, county of Oceana, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 54, p. 31, Eff. May 15, 1968.

R 281.764.3 Pentwater lake and entrance channel; slow—no wake speed.

Rule 3. On the waters of the Pentwater lake and the entrance channel to Pentwater lake, village of Pentwater and township of Pentwater, county of Oceana, state of Michigan, from the Pentwater entrance channel pierhead to a line drawn from Popp's point in the village of Pentwater westerly to the west shore of Pentwater lake, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 8, Eff. Jan. 4, 1971.

R 281.764.5 School Section lake; hours for high-speed boating and water skiing.

Rule 5. On the waters of School Section lake, sections 15 and 16, T16N, R15W, Colfax township, Oceana county, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 82, p. 9, Eff. Feb. 28, 1975.

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R 281.764.6 School Section lake; slow—no wake speed zone.

Rule 6. On the waters of School Section lake, sections 15 and 16, T16N, R15W, Colfax township, Oceana county, west of a line from the most southerly point of lot 17, Dennis subdivision, southerly to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 9, Eff. Feb. 28, 1975.

Regulation No. 65, Ogemaw county.

R 281.765.1 Horseshoe lake; speed restriction.

Rule 1. On the waters of Horseshoe lake, Foster township, Ogemaw county, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 54, p. 31, Eff. May 15, 1968.

R 281.765.2 Lake Ogemaw; Churchill and Mills townships; hours for high-speed boating and water skiing; distance from shore.

Rule 2. (1) On the waters of Lake Ogemaw, sections 34 and 35, T22N, R3E, Churchill township, and sections 2 and 3, T21N, R3E, Mills township, Ogemaw county, it is unlawful, during the period of May 15 to September 15, on Saturdays, Sundays, memorial day, independence day, and labor day, except between the hours of 10:00 a.m. and 6:30 p.m., to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(2) On the waters of Lake Ogemaw, sections 34 and 35, T22N, R3E, Churchill township, and sections 2 and 3, T21N, R3E, Mills township, Ogemaw county, it is unlawful to operate a vessel when within 100 feet of any shore, except when the vessel is proceeding at a slow—no wake speed, or when water skiers are being picked up or dropped off, if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.

History: 1954 ACS 88, p. 50, Eff. Aug. 10, 1976.

R 281.765.3 Everett lake; high-speed boating and water skiing prohibited.

Rule 3. On the waters of Everett lake, section 10, town 22 north, range 4 east, township of Logan, county of Ogemaw, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 62, p. 7, Eff. May 18, 1970.

R 281.765.4 Little Stylus lake; high-speed boating and water skiing prohibited.

Rule 4. On the waters of Little Stylus lake, section 4, town 22 north, range 4 east, township of Logan, county of Ogemaw, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 62, p. 7, Eff. May 18, 1970.

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R 281.765.5 Bush lake; high-speed boating and water skiing hours.

Rule 5. On the waters of Bush lake, sections 23 and 26, town 21 north, range 3 east, township of Mills, county of Ogemaw, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 62, p. 7, Eff. May 18, 1970.

R 281.765.6 Feeding Ground lake; high-speed boating and water skiing hours.

Rule 6. On the waters of Feeding Ground lake, section 25, town 21 north, range 3 east, township of Mills, county of Ogemaw, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 62, p. 8, Eff. May 18, 1970.

R 281.765.7 Devoe lake; motorboats prohibited.

Rule 7. On the waters of Devoe lake, sections 11 and 12, town 23 north, range 3 east, Cumming township, Ogemaw county, it is unlawful to operate a motorboat.

History: 1954 ACS 72, p. 6, Eff. June 22, 1972.

R 281.765.8 Grebe lake; motorboats prohibited.

Rule 8. On the waters of Grebe lake, sections 1 and 12, town 23 north, range 3 east, Cumming township, and section 7, town 23 north, range 4 east, Hill township, Ogemaw county, it is unlawful to operate a motorboat.

History: 1954 ACS 72, p. 6, Eff. June 22, 1972.

R 281.765.9 Grousehaven lake; motorboats prohibited.

Rule 9. On the waters of Grousehaven lake, sections 1 and 2, town 23 north, range 3 east, Cumming township, Ogemaw county, it is unlawful to operate a motorboat.

History: 1954 ACS 72, p. 6, Eff. June 22, 1972.

R 281.765.10 Jewett lake; motorboats prohibited.

Rule 10. On the waters of Jewett lake, section 11, town 23 north, range 3 east, Cumming township, Ogemaw county, it is unlawful to operate a motorboat.

History: 1954 ACS 72, p. 6, Eff. June 22, 1972.

R 281.765.11 Lodge lake; motorboats prohibited.

Rule 11. On the waters of Lodge lake, sections 1 and 12, town 23 north, range 3 east, Cumming township, Ogemaw county, it is unlawful to operate a motorboat.

History: 1954 ACS 72, p. 6, Eff. June 22, 1972.

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R 281.765.12 Scaup lake; motorboats prohibited.

Rule 12. On the waters of Scaup lake, section 12, town 23 north, range 3 east, Cumming township, Ogemaw county, it is unlawful to operate a motorboat.

History: 1954 ACS 72, p. 6, Eff. June 22, 1972.

R 281.765.13 Skidway lake; hours for high-speed boating and water skiing.

Rule 13. On the waters of Skidway lake, section 26, T21N, R3E, Mills township, Ogemaw county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 84, p. 25, Eff. July 17, 1975.

R 281.765.14 Hardwood lake; hours for high-speed boating and water skiing.

Rule 14. On the waters of Hardwood lake, section 6, T21N, R4E, Richland township, Ogemaw county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 93, p. 19, Eff. Nov. 1, 1977.

Regulation No. 66, Ontonagon county.

R 281.766.1 Courtney lake; slow—no wake speed.

Rule 1. On the waters of Courtney lake, sections 4 and 9, town 50 north, range 37 west, township of Bohemia, county of Ontonagon, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 66, p. 8, Eff. Jan. 14, 1971.

Regulation No. 67, Osceola county.

R 281.767.1 Center lake; high-speed boating and water skiing prohibited.

Rule 1. On the waters of Center lake, sections 21 and 22, town 20 north, range 9 west, Sherman township, Osceola county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

R 281.767.2 Tiff lake; high-speed boating and water skiing prohibited.

Rule 2. On the waters of Tiff lake, sections 16 and 17, T17N, R8W, Evart township, Osceola county, it is unlawful to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 90, p. 6, Eff. Mar. 16, 1977.

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Regulation No. 68, Oscoda county.

R 281.768.1 Loon, Perry, and Tee lakes.

Rule 1. On the waters of Loon lake, Perry lake and Tee lake, Oscoda county, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965.
Cross reference: as to Tea lake (also called Tee lake), see also R 281.768.4 and R 281.768.5.

R 281.768.2 McCollum lake.

Rule 2. On the waters of McCollum lake, Oscoda county, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day. (See R 281.701.2 for regulation covering the part of this lake lying in Alcona county.)

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965.

R 281.768.3 Little Wolf lake; high-speed boating and water skiing hours.

Rule 3. On the waters of Little Wolf lake, township of Greenwood, county of Oscoda, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance. (See R 281.760.1 for regulation covering the part of this lake lying in Montmorency county.)

History: 1954 ACS 54, p. 31, Eff. May 15, 1968.

R 281.768.4 Tea lake; hours for high-speed boating and water skiing.

Rule 4. On the waters of Tea lake, sections 2, 3, 10 and 11, T28N, R1E, Greenwood township, Oscoda county, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 82, p. 10, Eff. Feb. 28, 1975.

R 281.768.5 Tea lake; slow—no wake speed zone.

Rule 5. On the waters of Tea lake, sections 2, 3, 10 and 11, T28N, R1E, Greenwood township, Oscoda county, south of a line from where the north line of lot 23, T-La-Ka Park No. 1 subdivision, as extended, intersects the water's edge and thence west to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 10, Eff. Feb. 28, 1975.

Regulation No. 69, Otsego county.

R 281.769.1 Perch lakes; slow—no wake speed.

Rule 1. On the waters of Perch lakes, section 30, town 30 north, range 3 west, Bagley township, Otsego county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 7, Eff. June 1, 1973.

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R 281.769.2 Bradford lake; hours for high-speed boating and water skiing.

Rule 2. On the waters of Bradford lake, sections 29, 31 and 32, town 29 north, range 3 west, Otsego lake township, Otsego county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance. (See R 281.720.8 for that part of Bradford lake which lies in Crawford county.)

History: 1954 ACS 75, p. 7, Eff. Mar. 27, 1973.

R 281.769.3 Heart lake; hours for high-speed boating and water skiing.

Rule 3. On the waters of Heart lake, section 20, town 29 north, range 3 west, Otsego Lake township, Otsego county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 75, p. 7, Eff. Mar. 27, 1973.

R 281.769.4 Heart lake, west part; slow—no wake speed.

Rule 4. On the waters of Heart lake, section 20, town 29 north, range 3 west, Otsego Lake township, Otsego county, west of a line beginning where the west line of lot 44, Heart Lake subdivision no. 2, intersects the shore of the lake and thence southerly to where the west line of lot 83, Heart Lake subdivision no. 2, intersects the shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 7, Eff. Mar. 27, 1973.

R 281.769.5 Clear lake; high-speed boating and water skiing prohibited.

Rule 5. On the waters of Clear lake, section 7, town 29 north, range 1 west, Charlton township, Otsego county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 75, p. 8, Eff. June 1, 1973.

R 281.769.6 Gee lake; slow—no wake speed.

Rule 6. On the waters of Gee lake, sections 13 and 24, town 29 north, range 1 west, Charlton township, Otsego county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed. (See R 281.760.9 for that part of Gee lake lying in Montmorency county.)

History: 1954 ACS 76, p. 7, Eff. July 14, 1973.

R 281.769.7 Traverse lakes; slow—no wake speed.

Rule 7. On the waters of the Traverse lakes, sections 23 and 24, town 30 north, range 1 west, Charlton township, Otsego county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 8, Eff. June 1, 1973.

R 281.769.8 Opal lake; hours for high-speed boating and water skiing.

Rule 8. On the waters of Opal lake, sections 1 and 12, town 29 north, range 3 west, Otsego Lake township, Otsego county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

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(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 76, p. 7, Eff. June 20, 1973.

R 281.769.9 Section One lake; water skiing and high-speed boating prohibited.

Rule 9. On the waters of Section One lake, section 36, town 29 north, range 3 west, Otsego Lake township, Otsego county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance. (See R 281.720.9 for the regulation covering that part of Section One lake that lies in Crawford county.)

History: 1954 ACS 77, p. 10, Eff. Oct. 4, 1973.

R 281.769.10 Big lake; slow—no wake speed zone.

Rule 10. On the waters of Big lake, section 8, T30N, R2W, Chester township, Otsego county, between a line from where the west line of lot 6, supervisor's plat of Shallow Shores subdivision, as extended, intersects the water's edge and thence to the most westerly point of Hilton island and a line from where the west line of lot 22, supervisor's plat of Shallow Shores subdivision, as extended, intersects the water's edge and thence to the most easterly point of Hilton island, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 10, Eff. Mar. 14, 1975.

R 281.769.11 Big lake; hours for high-speed boating and water skiing.

Rule 11. On the waters of Big lake, section 8, T30N, R2W, Chester township, Otsego county, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 82, p. 10, Eff. Mar. 14, 1975.

R 281.769.12 Little Bear lake; hours for high-speed boating and water skiing.

Rule 12. On the waters of Little Bear lake, section 35, T30N, R1W, and section 2, T29N, R1W, Charlton township, Otsego county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 84, p. 26, Eff. July 17, 1975.

R 281.769.13 Pickerel lake; operation of vessel powered by motor.

Rule 13. On the waters of Pickerel lake, section 11, T32N, R2W, Corwith township, Otsego county, it is unlawful to operate a vessel powered by a motor except an electric motor.

History: 1954 ACS 97, p. 16, Eff. Sept. 23, 1978.

Regulation No. 70, Ottawa county.

R 281.770.1 Lake Macatawa; westerly portion, controlled speed zone.

Rule 1. On those waters of the westerly portion of Lake Macatawa bounded on the north by 42°46'30" north latitude, on the east by 86°11'32" west longitude and

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at the westerly end of the entrance channel by 86°12′57″ west longitude, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 50, p. 12, Eff. May 15, 1967.

R 281.770.2 Lake Macatawa; Big bay, controlled speed zone.

Rule 2. On those waters of Big bay, lake Macatawa, lying to the north of 42°47′ north latitude and to the west of 86°11′ west longitude, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 50, p. 12, Eff. May 15, 1967.

R 281.770.3 Lake Macatawa; Pine creek bay, high-speed boating and water skiing hours.

Rule 3. On those waters of Pine creek bay, lake Macatawa, lying north of 42°47′10″, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 50, p. 13, Eff. May 15, 1967.

R 281.770.4 Grand river in Spring Lake village; slow—no wake speed.

Rule 4. On the waters of the Grand river, sections 15, 16, 21 and 22, town 8 north, range 16 west, Spring Lake village, Ottawa county, beginning at the entrance to Spring lake and continuing in an easterly direction for a distance of 4,000 feet, it shall be unlawful for an operator of a vessel to exceed a slow—no wake speed when within 200 feet of the north shore. Slow—no wake speed means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 25, 1971.

R 281.770.5 Spring lake entrance channel; slow—no wake speed.

Rule 5. On the waters of the entrance channel to Spring lake, section 16, town 8 north, range 16 west, Spring Lake village, Ottawa county, from the Grand river, northerly to the Grand Trunk railway bridge, it shall be unlawful for an operator of a vessel to exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 25, 1971.

R 281.770.6 Grand river in Grand Haven township; slow—no wake speed.

Rule 6. On the waters of the Grand river in section 1, town 7 north, range 16 west, Grand Haven township, Ottawa county, it shall be unlawful for an operator of a vessel to exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 25, 1971.

R 281.770.7 Millhouse bayou; slow—no wake speed.

Rule 7. On the waters of Millhouse bayou, section 1, town 7 north, range 16 west, Grand Haven township, Ottawa county, from Mercury Drive bridge to the Grand river, it shall be unlawful for an operator of a vessel to exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 25, 1971.

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R 281.770.8 Pottawatomie bayou; slow—no wake speed.

Rule 8. On the waters of Pottawatomie bayou, section 36, town 8 north, range 16 west, Grand Haven township, Ottawa county, for a distance of 500 feet westerly from Grand river, it shall be unlawful for an operator of a vessel to exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 25, 1971.

R 281.770.9 Spring lake; slow—no wake speed.

Rule 9. On the waters of Spring lake adjacent to the city of Ferrysburg, village of Spring Lake, Spring Lake township, Ottawa county, it is unlawful for:

(a) The operator of a vessel less than 26 feet in length to exceed a slow—no wake speed when within 200 feet of any shore, dock, or pierhead.

(b) The operator of a vessel 26 feet or more in length to exceed a slow—no wake speed. (See R 281.761.7, covering that portion of Spring lake which lies in Muskegon county.)

History: 1954 ACS 97, p. 16, Eff. Oct. 31, 1978.

Editor's note: Former R 281.770.9, deriving from ACS 77, p. 10, and containing similar provisions, expired by its own terms on January 1, 1977.

R 281.770.10 Spring lake and connected waters; slow—no wake speed.

Rule 10. It is unlawful for the operator of a vessel to exceed a slow—no wake speed on the following described waters in the city of Ferrysburg, village of Spring Lake, Spring Lake township, Ottawa county:

(a) Smith bayou: On the waters of Smith bayou, sections 9, 15, and 16, T8N, R16W, city of Ferrysburg, Ottawa county, northwesterly of a line beginning where the centerline of Reenders street, as extended, intersects the water's edge and thence southwesterly to the nearest opposite shore.

(b) Hammond bayou: On the waters of Hammond bayou, sections 11 and 14, T8N, R16W, Spring Lake township, Ottawa county, easterly of a line beginning where the east line of lot 20, plat of Longview, intersects the water's edge and thence southerly to the nearest opposite shore.

(c) Cornelius bayou: On the waters of Cornelius bayou, sections 2 and 3, T8N, R16W, Spring Lake township, Ottawa county, west of a line beginning where the west line of lot 24, Belle Point subdivision, intersects the water's edge and thence southwesterly to the nearest opposite shore.

(d) Stahl bayou: On the waters of Stahl bayou, section 2, T8N, R16W, Spring Lake township, Ottawa county, north of a line from the easternmost point of lot 7, Belle Point subdivision, northeasterly to the nearest opposite shore.

History: 1954 ACS 97, p. 16, Eff. Oct. 31, 1978.

Editor's note: Former R 281.770.10, deriving from ACS 77, p. 10, and containing similar provisions, expired by its own terms on January 1, 1977.

R 281.770.11 Grand river; slow—no wake speed.

Rule 11. On the waters of the Grand river, section 31, town 8 north, range 15 west, Crockery and Robinson townships, Ottawa county, from its confluence with Indian channel upstream 3,500 feet, it is unlawful for an operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 78, p. 17, Eff. Feb. 15, 1974.

R 281.770.12 Grand river; slow—no wake speed.

Rule 12. On the waters of the Grand river, sections 33 and 34, town 8 north, range 15 west, Crockery and Robinson townships, Ottawa county, from a point

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where 120th avenue, as extended meets the water's edge, downstream for 2,500 feet and upstream for 1,500 feet, it is unlawful for an operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 78, p. 18, Eff. Feb. 15, 1974.

R 281.770.13 Lake Macatawa, Central park; slow—no wake speed.

Rule 13. On the waters of lake Macatawa, city of Holland and township of Park, county of Ottawa, east of a line beginning where Grove avenue as extended intersects the water's edge and thence north to the nearest opposite shore, to a line beginning where Myrtle avenue as extended intersects the water's edge, and thence north to the nearest opposite shore, it is unlawful for:

(a) The operator of a vessel less than 26 feet in length to exceed a slow—no wake speed when within 200 feet of any shore, dock, or pierhead.

(b) The operator of a vessel 26 feet or more in length to exceed a slow—no wake speed when within 600 feet of any shore, dock, or pierhead.

History: 1954 ACS 82, p. 10, Eff. Mar. 14, 1975.

R 281.770.14 Lake Macatawa, Kollen park; slow—no wake speed.

Rule 14. On the waters of lake Macatawa, city of Holland and township of Park, county of Ottawa, east of a line beginning where Cleveland avenue as extended meets the water's edge, and thence north to the nearest opposite shore, to a line beginning where Washington boulevard as extended intersects the water's edge, and thence north to the nearest opposite shore, it is unlawful for:

(a) The operator of a vessel less than 26 feet in length to exceed a slow—no wake speed when within 200 feet of any shore, dock, or pierhead.

(b) The operator of a vessel 26 feet or more in length to exceed a slow—no wake speed when within 600 feet of any shore, dock, or pierhead.

History: 1954 ACS 82, p. 10, Eff. Mar. 14, 1975.

R 281.770.15 Macatawa river, city of Holland; slow—no wake speed.

Rule 15. On the waters of the Macatawa river, city of Holland, county of Ottawa, from a line from where Fourth street as extended west intersects the water's edge and thence northeasterly to the nearest north shore, upstream to a point 1,500 feet upstream from the North River Avenue bridge, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 10, Eff. Mar. 14, 1975.

R 281.770.16 Pigeon lake; hours for slow—no wake speed.

Rule 16. On the waters of Pigeon lake, sections 15 and 16, T6N, R16W, Port Sheldon township, Ottawa county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 84, p. 26, Eff. July 17, 1975.

R 281.770.17 Grand river, entrance channel; slow—no wake speed.

Rule 17. On the waters of the Grand river and entrance channel, sections 19, 20, 29 and 30, T8N, R16W, city of Grand Haven, Ottawa county, from the entrance channel pierhead upstream to a line drawn from the north shore of South channel, at its confluence with the Grand river, westerly to the west shore of the Grand river, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 19, Eff. Apr. 17, 1974.

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R 281.770.18 Grand river, South channel; slow—no wake speed.

Rule 18. On the waters of South channel, sections 20 and 21, T8N, R16W, city of Grand Haven, Ottawa county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 19, Eff. Apr. 17, 1974.

R 281.770.19 Grand river; slow—no wake speed.

Rule 19. On the waters of the Grand river, sections 16, 17, 20 and 21, T8N, R16W, city of Grand Haven, Ottawa county, from the Grand Trunk railway bridge downstream for 3,200 feet and upstream for 1,000 feet, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 19, Eff. Apr. 17, 1974.

R 281.770.20 Grand river; slow—no wake speed.

Rule 20. On the waters of the Grand river, sections 16 and 21, T8N, R16W, city of Grand Haven, Ottawa county, from buoy no. 14, which lies 600 feet, more or less, upstream from U.S. 31 highway bridge, westerly to the west shore, and along the westerly shore to the entrance of South channel and when within 300 feet of the shoreline, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

R 281.770.21 Lake Macatawa entrance channel; swimming prohibited.

Rule 21. On the waters of the entrance channel to Lake Macatawa from Lake Michigan, section 33, T5N, R16W, Park township, Ottawa county, it is unlawful for a person to swim.

History: 1954 ACS 97, p. 16, Eff. Oct. 4, 1978.

Regulation No. 71, Presque Isle county.

R 281.771.1 Rainy river from mouth to Cold creek; speed restriction.

Rule 1. On the waters of Rainy river, township of North Allis, county of Presque Isle, state of Michigan, from its mouth located in the northwest ¼ of the southeast ¼ of section 5, town 35 north, range 2 east, to its confluence with Cold creek located in the southwest ¼ of the northeast ¼ of section 5, town 35 north, range 2 east, no operator of any vessel shall exceed a slow—no wake speed.

History: 1954 ACS 56, p. 6, Eff. Nov. 14, 1968.

R 281.771.2 Lost lake; high-speed boating and water skiing prohibited.

Rule 2. On the waters of Lost lake, sections 32 and 33, town 34 north, range 4 east, Bismarck township, Presque Isle county, it is unlawful to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.771.3 Sunken lake; high-speed boating and water skiing prohibited.

Rule 3. On the waters of Sunken lake, sections 32 and 33, town 33 north, range 6 east, Posen township, Presque Isle county, it shall be unlawful to:

(a) Operate a vessel at high speed, which means a speed at or above which a vessel reaches a planing condition, or

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(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 68, p. 9, Eff. Aug. 26, 1971.

R 281.771.4 Lake Nettie except its most southern bay; hours for high-speed boating and water skiing.

Rule 4. On the waters of lake Nettie, sections 29 to 32, town 34 north, range 4 east, Bismarck township, Presque Isle county, except the bay in the southeast ¼ of section 31, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 75, p. 8, Eff. June 1, 1973.

R 281.771.5 Bay of lake Nettie; slow—no wake speed.

Rule 5. On the waters of the bay of lake Nettie, in the southeast ¼ of section 31, town 34 north, range 4 east, Bismarck township, Presque Isle county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 8, Eff. June 1, 1973.

R 281.771.6 Unnamed lake connected to lake Nettie; slow—no wake speed.

Rule 6. On the waters of the unnamed lake, known locally as Wilson lake, section 31, town 34 north, range 4 east, Bismarck township, Presque Isle county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 75, p. 8, Eff. June 1, 1973.

R 281.771.7 Lake May; hours for high-speed boating and water skiing.

Rule 7. On the waters of lake May, sections 9, 10, 15 and 16, town 33 north, range 4 east, Bismarck township, Presque Isle county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 78, p. 18, Eff. Feb. 15, 1974.

R 281.771.8 Lake May, south basin; slow—no wake speed.

Rule 8. On the waters of lake May, sections 9, 10, 15 and 16, town 33 north, range 4 east, Bismarck township, Presque Isle county, east and south of a line from the easternmost part of lot 6, Henrich's Lake May subdivision to the nearest opposite shore, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 78, p. 18, Eff. Feb. 15, 1974.

Regulation No. 72, Roscommon county.

R 281.772.1 South branch AuSable river and Mud lake; slow—no wake speed.

Rule 1. On the waters of the south branch of the AuSable river and Mud lake, sections 8, 9 and 16, T23N, R1W, Richfield township, Roscommon county, from the dam on section 8, upstream to Lake St. Helen, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

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R 281.772.2 Artificial canal connected to Houghton lake; slow—no wake speed.

Rule 2. On the waters of that artificial canal, connected to Houghton lake, in the southwest ¼ of section 10, T23N, R4W, Lake township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

R 281.772.3 Artificial canals connected to Houghton lake; slow—no wake speed.

Rule 3. On the waters of the artificial canals, connected to Houghton lake, in section 23, T23N, R4W, Lake township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

R 281.772.4 Artificial canals connected to Houghton lake; slow—no wake speed.

Rule 4. On the waters of the artificial canals, connected to Houghton lake, in section 21, T23N, R4W, Lake township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

R 281.772.5 Artificial canals connected to Houghton lake; slow—no wake speed.

Rule 5. On the waters of the artificial canals, connected to Houghton lake, in section 34, T23N, R4W, Lake township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

R 281.772.6 Muskegon river; slow—no wake speed zone.

Rule 6. On the waters of the Muskegon river, section 10, T23N, R4W, Lake township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

R 281.772.7 Artificial canals connected to Muskegon river; slow—no wake speed.

Rule 7. On the waters of the artificial canals, connected to the Muskegon river, section 10, T23N, R4W, Lake township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 79, p. 20, Eff. Apr. 17, 1974.

R 281.772.8 Lake St. Helen, canals and channels; slow—no wake speed.

Rule 8. On the waters of the canals and channels connected to Lake St. Helen, in section 30, T23N, R1W, Richfield township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 87, p. 9, Eff. Mar. 18, 1976.

R 281.772.9 Houghton lake; canals and channels; slow—no wake speed.

Rule 9. On the waters of the canals and channels connected to Houghton lake in sections 2, 9, 10, and 15, T22N, R3W, Denton township, Roscommon county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 89, p. 8, Eff. Sept. 30, 1976.

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Regulation No. 74, St. Clair county.

R 281.774.1 Lake St. Clair; certain creeks, channels, and canals.

Rule 1. On the waters of Crepeau (also known as Frog) creek, Marsac creek, and all natural and artificial channels and canals in the city of New Baltimore, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 50, p. 13, Eff. May 15, 1967.

R 281.774.2 Lake St. Clair; certain channel.

Rule 2. On the waters of that portion of Lake St. Clair, city of New Baltimore, county of St. Clair, state of Michigan, in a channel which extends 500 feet southerly from a harbor entrance at 42°40'21" north latitude and 82°44'17" west longitude, no operator of any motorboat shall exceed a slow—no wake speed. (See R 281.750.4 and R 281.750.5 for regulation covering the part of this lake lying in Macomb county.)

History: 1954 ACS 50, p. 13, Eff. May 15, 1967.

R 281.774.3 Black river, from mouth to Grand Trunk bridge; speed restriction.

Rule 3. On the waters of the Black river, commencing at its mouth at the St. Clair river to the Grand Trunk Western railroad bridge, a distance of 8,000 feet, more or less, city of Port Huron, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 8, Eff. May 18, 1970.

R 281.774.4 Black river, adjacent to highway 94 bridge, part in city of Port Huron; speed restriction.

Rule 4. On the waters of the Black river, commencing at a point 600 feet southeast of the interstate highway 94 bridge to a point 800 feet northwest of the bridge, city of Port Huron, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 8, Eff. May 18, 1970.

R 281.774.5 Black river, adjacent to intersection with canal, part in city of Port Huron; speed restriction.

Rule 5. On the waters of the Black river, commencing at a point 1,000 feet south of the intersection of the Black river and the Black river canal to a point 500 feet northwest of the intersection, city of Port Huron, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 8, Eff. May 18, 1970.

R 281.774.6 Swan creek and connecting channels; speed restriction.

Rule 6. On the waters of Swan creek and all connecting channels, commencing at its mouth at Anchor bay, Lake St. Clair, to Short Cut road, a distance of 2,770 yards more or less, township of Ira, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 57, p. 8, Eff. Feb. 14, 1969.

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R 281.774.7 Rescinded.

History: 1954 ACS 62, p. 8, Eff. May 18, 1970; rescinded 1954 ACS 77, p. 10, Eff. Nov. 23, 1973.

R 281.774.8 Channels and canals, city of Algonac; slow—no wake speed.

Rule 8. On the waters of all other channels and canals, city of Algonac, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 8, Eff. May 18, 1970.

R 281.774.9 Belle river from King road to Marine City; slow—no wake speed.

Rule 9. On the waters of the Belle river, sections 24, 25 and 36, town 4 north, range 16 east, township of East China, county of St. Clair, state of Michigan, downstream from King road to the north city limits of Marine City, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 8, Eff. May 18, 1970.

R 281.774.10 Belle river, part in Marine City; slow—no wake speed.

Rule 10. On the waters of the Belle river, sections 1 and 12, town 3 north, range 16 east, within the limits of Marine City, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 9, Eff. May 18, 1970.

R 281.774.11 Black river adjacent to highway 94 bridge, part in township of Port Huron; speed restriction.

Rule 11. On the waters of the Black river, commencing at a point 600 feet southeast of the interstate highway 94 bridge to a point 800 feet northwest of the bridge, sections 3 and 4, town 6 north, range 17 east, township of Port Huron, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 9, Eff. May 18, 1970.

R 281.774.12 Black river adjacent to intersection with canal; part in township of Port Huron, speed restriction.

Rule 12. On the waters of the Black river commencing at a point 1,000 feet south of the intersection of the Black river and the Black river canal, to a point 500 feet northwest of the intersection, section 27, town 7 north, range 17 east, township of Port Huron, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 9, Eff. May 18, 1970.

R 281.774.13 Black river adjacent to intersection with canal; part in township of Fort Gratiot, speed restriction.

Rule 13. On the waters of the Black river commencing at a point 1,000 feet south of the intersection of the Black river and the Black river canal, to a point 500 feet northwest of the intersection, section 27, town 7 north, range 17 east,

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township of Fort Gratiot, county of St. Clair, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal.

History: 1954 ACS 62, p. 9, Eff. May 18, 1970.

R 281.774.14 Pine river in city of St. Clair; slow—no wake speed.

Rule 14. On the waters of the Pine river, city of St. Clair, St. Clair county, within the city limits, it is unlawful for an operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 71, p. 17, Eff. Apr. 28, 1972.

R 281.774.15 St. Clair river and connected waters; slow—no wake speed.

Rule 15. (1) On the waters of the St. Clair river, from its confluence with the Black river, downstream to Lake St. Clair, including its north channel, middle channel, the Chenal A Bout Rond (the Sni Bora), the south channel, Baltimore highway, Big Fisher highway and Sears highway, it is unlawful for:

(a) The operator of a vessel less than 26 feet in length to exceed a slow—no wake speed when within 200 feet of any shore, dock, or pierhead, and within the jurisdictional boundaries of the state of Michigan.

(b) The operator of a vessel 26 feet or more in length to exceed a slow—no wake speed when within 600 feet of any shore, dock, or pierhead, and within the jurisdictional boundaries of the state of Michigan.

(2) The provisions of this rule shall apply only to vessels used for recreational purposes.

History: 1954 ACS 77, p. 11, Eff. Nov. 23, 1973.

R 281.774.16 Black river canal; prohibited conduct.

Rule 16. (1) On the waters of the Black river canal, sections 26 and 27, T7N, R17E, city of Port Huron, St. Clair county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

(2) On the waters of the Black river canal, extending from Gratiot avenue easterly to Lake Huron, section 26, T7N, R17E, city of Port Huron, St. Clair county, it is unlawful for a person to:

(a) Swim or fish.

(b) Moor or anchor a vessel, except in cases of emergency.

History: 1954 ACS 92, p. 12, Eff. July 6, 1977.

Regulation No. 75, St. Joseph county.

R 281.775.1 Long and Pleasant lakes; hours for water skiing.

Rule 1. On the waters of Long lake and Pleasant lake, Fabius township, St. Joseph county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, for the operator of a vessel to have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965; 1954 ACS 99, p. 34, Eff. June 9, 1979.

R 281.775.2 Lewis lake; high-speed boating and water skiing prohibited.

Rule 2. On the waters of Lewis lake, sections 18 and 19, town 5 south, range 12 west, Flowerfield township, St. Joseph county, it is unlawful to:

(a) Operate a vessel at high speed, or

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(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance. (See R 281.714.9 for that part of Lewis lake which lies in Cass county.)

History: 1954 ACS 72, p. 6, Eff. June 22, 1972.

R 281.775.3 St. Joseph river, portion of; hours for high-speed boating and water skiing.

Rule 3. On the waters of the St. Joseph river, T7S, T8S, R12W, Constantine and Mottville townships, St. Joseph county, from the west line of section 6, T8S, R12W, upstream to the dam at Constantine, in section 23, T7S, R12W, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 88, p. 50, Eff. July 24, 1976.

R 281.775.4 St. Joseph river; slow—no wake speed zone.

Rule 4. On the waters of the St. Joseph river, T7S, T8S, R12W, Constantine and Mottville townships, St. Joseph county, in the northeast ¼ of section 5, T8S, R12W and north of the south line of section 28, T7S, R12W, it is unlawful for the operator of a vessel to exceed a slow—no wake speed at any time.

History: 1954 ACS 88, p. 50, Eff. July 24, 1976.

R 281.775.5 Clear lake; hours for slow—no wake speed.

Rule 5. On the waters of Clear lake, sections 8, 17, and 20, T6S, R12W, Fabius township, St. Joseph county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed between the hours of 6:30 p.m. and 10:00 a.m. of the following day.

History: 1954 ACS 99, p. 34, Eff. June 9, 1979.

Regulation No. 77, Schoolcraft county.

R 281.777.1 Colwell lake; hours for high-speed boating and water skiing.

Rule 1. On the waters of Colwell lake, township of Inwood, county of Schoolcraft, state of Michigan, no operator of any motorboat, during the period from 6:30 p.m. to 10:00 a.m. of the following day, shall:

(a) Operate such motorboat at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 56, p. 7, Eff. Nov. 14, 1968.

R 281.777.2 Indian river, portion near Indian lake; speed restriction.

Rule 2. On that portion of the Indian river commencing at Indian lake, thence downstream in a southeasterly direction 3,300 feet more or less to the west, north-south section line of section 35, town 42 north, range 16 west, township of Hiawatha, county of Schoolcraft, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 57, p. 8, Eff. Feb. 14, 1969.

R 281.777.3 Fox river, east branch; slow—no wake speed.

Rule 3. On the waters of the east branch of the Fox river, from the east line of section 24, town 46 north, range 13 west, upstream to the mouth of Cold creek,

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section 15, town 46 north, range 13 west, Seney township, Schoolcraft county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 74, p. 50, Eff. Jan. 23, 1973.

Regulation No. 79, Tuscola county.

R 281.779.1 Quanicassee river, portion of; slow—no wake speed.

Rule 1. On the waters of the Quanicassee river and Saginaw bay, sections 29 and 30, T14N, R7E, Wisner township, Tuscola county, from the M-25 bridge downstream and for a distance of 300 feet in any direction from the river mouth in Saginaw bay, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 97, p. 17, Eff. Oct. 4, 1978.

Regulation No. 80, Van Buren county.

R 281.780.1 Rush lake and Three Mile lake.

Rule 1. On the waters of Rush lake and Three Mile lake, Van Buren county, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 45, p. 7, Eff. Feb. 14, 1966.

R 281.780.2 Little Three Mile lake and portion of Three Mile lake.

Rule 2. On the waters of Little Three Mile lake and on that part of Three Mile lake south of the south eighth line of section 21, T3S, R14W, Van Buren county, state of Michigan, no operator of any motorboat shall:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance.

History: 1954 ACS 45, p. 7, Eff. Feb. 14, 1966.

R 281.780.3 Gravel lake channel.

Rule 3. On the waters of the channel located on the northwest side of Gravel lake, Van Buren county, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 45, p. 7, Eff. Feb. 14, 1966.

R 281.780.4 Black river and entrance channel; slow—no wake speed.

Rule 4. On the waters of the Black river and the entrance channel, city of South Haven, Van Buren county, from the east corporation limits of South Haven downstream to the westerly end of the entrance channel, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 77, p. 11, Eff. Oct. 4, 1973.

R 281.780.5 Brandywine lake; hours for high-speed boating and water skiing.

Rule 5. On the waters of Brandywine lake, sections 29 and 32, T1S, R13W, Pine Grove township, Van Buren county, it is unlawful, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 90, p. 6, Eff. Jan. 14, 1977.

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R 281.780.6 Reynolds lakes, channel connecting; slow—no wake speed.

Rule 6. On the waters of the channel connecting North Reynolds lake to South Reynolds lake in section 24, T3S, R15W, Lawrence township, Van Buren county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed, which is a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 95, p. 27, Eff. June 7, 1978.

R 281.780.7 Van Auken lake, Bangor township.

Rule 7. (1) On the waters of Van Auken lake, sections 28, 32, and 33, T2S, R16W, Bangor township, Van Buren county, it is unlawful, during the period of May 15 to September 15, between the hours of 6:30 p.m. and 10:00 a.m. of the following day, to:

(a) Operate a vessel at high speed, or

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(2) On the waters of the canals and channels connected to Van Auken lake, sections 28, 32, and 33, T2S, R16W, Bangor township, Van Buren county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 91, p. 24, Eff. Apr. 30, 1977.

Regulation No. 81, Washtenaw county.

R 281.781.1 Big Silver lake.

Rule 1. On the waters of Big Silver lake, township of Dexter, county of Washtenaw, no operator of any motorboat shall, during the period from 6:30 p.m. to 10:00 a.m. of the following day:

(a) Operate such motorboat at high speed, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance. (See R 281.747.2 for regulation covering the part of this lake in Livingston county.)

History: 1954 ACS 46, p. 6, Eff. May 14, 1966.

R 281.781.2 Round lake.

Rule 2. On the waters of Round lake, Manchester township, county of Washtenaw, state of Michigan, no operator of any motorboat shall:

(a) Operate such vessel at high speed, which means a speed at or above which a motorboat reaches a planing condition, or

(b) Have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance. (See R 281.738.2 for regulation covering the part of this lake lying in Jackson county and R 281.746.1 for regulation covering the part of this lake lying in Lenawee county.)

History: 1954 ACS 49, p. 6, Eff. Feb. 14, 1967.

R 281.781.3 Freedom (Little Silver) lake.

Rule 3. On the waters of Freedom (Little Silver) lake, township of Freedom, county of Washtenaw, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 51, p. 8, Eff. Aug. 15, 1967.

R 281.781.4 Huron river, Ann Arbor city and township; speed restriction.

Rule 4. On the waters of the Huron river within the city of Ann Arbor, county of Washtenaw, state of Michigan, and on the waters of the Huron river from the

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Maple street bridge to the Dixboro street bridge, including Argo, Geddes and Barton ponds, township of Ann Arbor, county of Washtenaw, state of Michigan, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 54, p. 32, Eff. May 15, 1968.

R 281.781.5 Ford lake; hours for high-speed boating.

Rule 5. On the waters of Ford lake, city of Ypsilanti and township of Ypsilanti, county of Washtenaw, it is unlawful during the period of 1 hour after sunset to 1 hour prior to sunrise, to operate a vessel at high speed.

History: 1954 ACS 80, p. 9, Eff. Aug. 17, 1974.

R 281.781.6 Ford lake, portion of; vessels prohibited.

Rule 6. On the waters of Ford lake, city of Ypsilanti and township of Ypsilanti, county of Washtenaw, it is unlawful to operate a vessel 300 feet in any direction from the dam on the east line of section 23, T3S, R7E.

History: 1954 ACS 80, p. 9, Eff. Aug. 17, 1974.

R 281.781.7 Base Line lake, bay; slow—no wake speed.

Rule 7. On the waters of that bay of Base Line lake, section 6, T1S, R5E, Webster township, Washtenaw county, in the SW¼ NW¼ and the W½ of the SE¼ NW¼, section 6, T1S, R5E, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 11, Eff. Feb. 28, 1975.

R 281.781.8 Canals connecting Huron river and Portage lake; slow—no wake speed.

Rule 8. On the waters of the canals connecting the Huron river and Portage lake, section 1, T1S, R5E, Dexter township and section 6, T1S, R5E, Webster township, Washtenaw county, and for a distance of 300 feet from the canal in any direction in Portage lake, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 11, Eff. Feb. 28, 1975.

R 281.781.9 Huron river; slow—no wake speed zone.

Rule 9. On the waters of the Huron river, section 1, T1S, R4E, Dexter township and section 6, T1S, R5E, Webster township, Washtenaw county, upstream from a point 600 feet below the Macgregor road bridge in the SE¼ of SE¼, section 1, to Base Line lake, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 82, p. 11, Eff. Feb. 28, 1975.

R 281.781.11 Hi-Land lake and connecting canals and channels; prohibited conduct.

Rule 11. On the waters of Hi-Land lake and the canals and channels connected thereto, sections 5 and 6, T1S, R4E, Dexter township, Washtenaw county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 100 feet of any shore, dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when water skiers are being picked up or dropped off if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state. (See R 281.747.19 covering that portion of Hi-Land lake which lies in Livingston county.)

History: 1954 ACS 99, p. 34, Eff. Apr. 28, 1979.

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Regulation No. 82, Wayne county.

R 281.782.1 Belleville lake, at Denton road bridge; speed restriction.

Rule 1. On the waters of that portion of Belleville lake, city of Belleville and township of Van Buren, county of Wayne, state of Michigan, within 100 feet of the Denton road bridge, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 54, p. 32, Eff. May 15, 1968.

R 281.782.2 Belleville lake, at Main street bridge; speed restriction.

Rule 2. On the waters of that portion of Belleville lake, city of Belleville and township of Van Buren, county of Wayne, state of Michigan, within 100 feet of the Belleville road—Main street bridge, no operator of any motorboat shall exceed a slow—no wake speed.

History: 1954 ACS 54, p. 32, Eff. May 15, 1968.

R 281.782.3 Huron river, channels and bayous; slow—no wake speed.

Rule 3. On the waters of the Huron river and the natural and artificial channels and bayous in sections 23 to 25, P.C. 636, town 5 south, range 10 east, Brownstown township, Wayne county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 15, 1971.

R 281.782.4 Silver creek, bayous, estuary, canals and channels; slow—no wake speed.

Rule 4. On the waters of Silver creek, its bayous and estuary and connected artificial and natural canals and channels in sections 14, 15, 23 and 24, and P.C. 636, town 5 south, range 10 east, Brownstown township, Wayne county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 15, 1971.

R 281.782.5 Maple and Milleville beaches, canals and channels; slow—no wake speed.

Rule 5. On the waters of the artificial and natural canals and channels, Maple and Milleville beaches, in sections 13 and 24, and P.C. 636, town 5 south, range 10 east, Brownstown township, Wayne county, an operator of a vessel shall not exceed a slow—no wake speed, which means a very slow speed whereby the wake or wash created by the vessel would be minimal.

History: 1954 ACS 69, p. 34, Eff. June 15, 1971.

R 281.782.6 Detroit river and connected waters, Grosse Ile township; slow—no wake speed.

Rule 6. On the waters of the Detroit river and connected waters, town 4 south, range 11 east, and town 5 south, range 11 east, Grosse Ile township, Wayne county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 1,000 feet of any shore, dock, or pierhead, except:

(a) East of Grosse Ile and west of Ballards reef channel from Black Can Buoy #1 upstream to Grosse Ile Spit Lighted Buoy LL 969 (HB I QK FLW) and

(b) West of Grosse Ile and east of the mainland of Wayne county from Red Nun #6 upstream to Grosse Ile Spit Lighted Buoy LL 969 (HB I QK FLW) and

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(c) On those waters adjacent to the islands of Mama Juda, Powder House, and Stony.

History: 1954 ACS 91, p. 24, Eff. Mar. 17, 1977.

R 281.782.7 Thorofare canal; slow—no wake speed.

Rule 7. On the waters of the Thorofare canal, P.C. 549, 550, 551, and 555, town 4 south, range 11 east, Grosse Ile township, Wayne county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 91, p. 25, Eff. Mar. 17, 1977.

R 281.782.8 Frenchman creek and connected waters; slow—no wake speed.

Rule 8. On the waters of Frenchman creek, passages east and west of Round island and the connected artificial canal, town 4 south, range 11 east, town 5 south, range 11 east, Grosse Ile township, Wayne county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 91, p. 25, Eff. Mar. 17, 1977.

R 281.782.9 Meso-Hickory passage; slow—no wake speed.

Rule 9. On the waters of the passage between Meso and Hickory islands, town 5 south, range 11 east, Grosse Ile township, Wayne county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 91, p. 25, Eff. Mar. 17, 1977.

R 281.782.10 Swan island canal; slow—no wake speed.

Rule 10. On the waters of the canal between Swan island and the mainland of Grosse Ile, town 4 south, range 11 east, town 5 south, range 11 east, Grosse Ile township, Wayne county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 91, p. 25, Eff. Mar. 17, 1977.

R 281.782.11 Elba island canals; slow—no wake speed.

Rule 11. On the waters of the natural and artificial channels and canals adjacent to Elba island, P.C. 553, 554, and 557, town 4 south, range 11 east, and town 5 south, range 11 east, Grosse Ile township, Wayne county, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 91, p. 25, Eff. Mar. 17, 1977.

R 281.782.12 Detroit river, city of Gibraltar; slow—no wake speed.

Rule 12. (1) On the waters of the Detroit river, within the corporate limits of the city of Gibraltar, Wayne county, T4S, R10 and 11E, T5S, R10 and 11E, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 500 feet of any shore, dock, or pierhead.

(2) This rule applies only to vessels used for recreational purposes.

History: 1954 ACS 88, p. 50, Eff. Aug. 3, 1976.

R 281.782.13 Natural and artificial channels and canals, city of Gibraltar; slow—no wake speed.

Rule 13. On the waters of all artificial and natural channels and canals, within the corporate limits of the city of Gibraltar, Wayne county, T4S, R10 and 11E and T5S, R10 and 11E, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 88, p. 50, Eff. Aug. 3, 1976.

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R 281.782.14 Detroit river, city of Trenton; slow—no wake speed.

Rule 14. (1) On the waters of the Detroit river, within the corporate limits of the city of Trenton, Wayne county, town 4 south, range 11 east, it is unlawful for the operator of a vessel to exceed a slow—no wake speed, when within 1,000 feet of any shore, dock, or pierhead.

(2) This rule applies only to vessels used for recreational purposes.

History: 1954 ACS 87, p. 10, Eff. May 29, 1976.

R 281.782.15 Natural and artificial channels and canals, city of Trenton; slow—no wake speed.

Rule 15. On the waters of all artificial and natural channels and canals, within the corporate limits of the city of Trenton, Wayne county, town 4 south, range 11 east, it is unlawful for the operator of a vessel to exceed a slow—no wake speed.

History: 1954 ACS 87, p. 10, Eff. May 29, 1976.

R 281.782.16 Detroit river, city of Wyandotte; slow—no wake speed zone.

Rule 16. On the waters of the Detroit river, adjacent to the city of Wyandotte, Wayne county, and hereinafter described, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 1,000 feet of the shore:

(a) South of a line beginning where Emmons boulevard as extended intersects the water's edge, thence southeasterly to the northernmost part of Grassy island and north of a line beginning where Goodell avenue as extended intersects the water's edge and thence east to Grassy island.

(b) South of a line beginning where Cedar street as extended intersects the water's edge, thence east to the Fighting island channel and north of a line beginning where Plum street as extended intersects the water's edge and thence east to Grosse Ile.

History: 1954 ACS 87, p. 10, Eff. Apr. 24, 1976.

R 281.782.17 Detroit river, city of Ecorse; slow—no wake speed zone.

Rule 17. On the waters of the Detroit river, adjacent to the city of Ecorse, Wayne county, and hereinafter described, it is unlawful for the operator of a vessel to exceed a slow—no wake speed when within 1,000 feet of the shore: within a line beginning where Outer drive as extended intersects the water's edge, thence south to the easternmost point of Mud island, thence south to the city of Ecorse corporation boundary and thence westerly to the water's edge.

History: 1954 ACS 87, p. 10, Eff. June 15, 1976.

R 281.782.18 Phoenix lake; motorboats prohibited.

Rule 18. On the waters of Phoenix lake and the canals and channels connected thereto, sections 14 and 23, T1S, R8E, Wayne county, it is unlawful to operate a motorboat.

History: 1954 ACS 96, p. 64, Eff. Aug. 25, 1978.

R 281.782.19 Rouge river, portion of; motorboats prohibited.

Rule 19. On that portion of the waters of the middle branch of the Rouge river and the canals and channels connected thereto, between Phoenix and Wilcox lakes, section 23, T1S, R8E, Wayne county, it is unlawful to operate a motorboat.

History: 1954 ACS 96, p. 64, Eff. Aug. 25, 1978.

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R 281.782.20 Wilcox lake; motorboats prohibited.

Rule 20. On the waters of Wilcox lake and the canals and channels connected thereto, section 23, T1S, R8E, Wayne county, it is unlawful to operate a motorboat.

History: 1954 ACS 96, p. 64, Eff. Aug. 25, 1978.

R 281.782.21 Rouge river, portion of; motorboats prohibited.

Rule 21. On that portion of the waters of the middle branch of the Rouge river and the canals and channels connected thereto, between Wilcox and Newburgh lakes, sections 23, 25, and 26, T1S, R8E, Wayne county, it is unlawful to operate a motorboat.

History: 1954 ACS 96, p. 65, Eff. Aug. 25, 1978.

R 281.782.22 Newburgh lake; motorboats prohibited.

Rule 22. On the waters of Newburgh lake and the canals and channels connected thereto, section 25, T1S, R8E, and sections 30 and 31, T1S, R9E, Wayne county, it is unlawful to operate a motorboat.

History: 1954 ACS 96, p. 65, Eff. Aug. 25, 1978.

R 281.782.23 Rouge river, portion of; motorboats prohibited.

Rule 23. On that portion of the waters of the middle branch of the Rouge river and the canals and channels connected thereto, between Newburgh and Nankin lakes, sections 32 and 33, T1S, R9E, Wayne county, it is unlawful to operate a motorboat.

History: 1954 ACS 96, p. 65, Eff. Aug. 25, 1978.

R 281.782.24 Nankin lake; motorboats prohibited.

Rule 24. On the waters of Nankin lake and the canals and channels connected thereto, section 33, T1S, R9E, and section 4, T2S, R9E, Wayne county, it is unlawful to operate a motorboat.

History: 1954 ACS 96, p. 65, Eff. Aug. 25, 1978.

Regulation No. 83, Wexford county.

R 281.783.1 Berry lake.

Rule 1. On the waters of Berry lake, Clam Lake township, Wexford county, state of Michigan, no operator of any motorboat shall have in tow or shall otherwise assist in the propulsion of a person on water skis, water sled, surfboard, or other similar contrivance during the period from 6:30 p.m. to 10:00 a.m. of the following day.

History: 1954 ACS 43, p. 9, Eff. Aug. 14, 1965.

R 281.783.2 Meauwataka lake; hours for high-speed boating and water skiing.

Rule 2. On the waters of Meauwataka lake, sections 31 and 32, T23N, R10W, Colfax township, Wexford county, it is unlawful, during the period of May 15 to September 15, on Saturdays, Sundays, memorial day, independence day, and labor day, except between the hours of 10:00 a.m. and 6:30 p.m., to:

(a) Operate a vessel at high speed.

(b) Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

History: 1954 ACS 88, p. 51, Eff. July 9, 1976.

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HYDROLOGICAL SURVEY DIVISION

INLAND LAKES AND STREAMS

R 281.801—R 281.810 Rescinded.

History: 1954 ACS 51, pp. 8-10, Eff. Aug. 15, 1967; rescinded 1954 ACS 79, p. 28, Eff. May 11, 1974.

INLAND LAKES AND STREAMS

(By authority conferred on the department of natural resources by section 11 of Act No. 346 of the Public Acts of 1972, being §281.961 of the Michigan Compiled Laws)

R 281.811 Definitions.

Rule 1. (1) The definitions in the act are applicable to these rules.

(2) "Act" means Act No. 346 of the Public Acts of 1972, being §281.951 et seq. of the Michigan Compiled Laws.

(3) "Applicant" means a person applying for a permit pursuant to the provisions of the act.

(4) "Bottomland dredging" means dredging of channels and canals, and the removal of any rock, stone or soil from bottomlands.

(5) "Bottomland filling" means placement of rock, stone, soil, or other material on bottomlands.

(6) "Minor drainage structures and facilities" means all of the following:

(a) Cross road culverts which serve only to equalize the existing water surfaces at the ends of the culvert.

(b) Cross road culverts constructed to continue the existence of drainage courses other than inland lakes or streams.

(c) Roadside ditches which serve to convey storm water runoff from the highway right-of-way without materially changing the drainage pattern which existed prior to the construction of the ditches.

(d) Standard appurtenances for storm water runoff facilities, such as manholes, catch basins and headwalls.

(e) Cross road culverts which are constructed for continuation of a drainage course where the drainage area above the culvert is less than 2 square miles.

(7) "Mainstream portions of natural watercourses" includes but is not limited to:

(a) Grand river drain (Jackson county)

Point of beginning: The intersection of Liberty and Milwaukee streets in the city of Jackson.

Point of ending: The west line of Rives township, Jackson county, 1,165 feet south of the northwest corner of section 7, T1S, R1W.

(b) Rogue river drain (Newaygo and Kent counties)

Point of beginning: At its intersection with the south line of section 2, T10N, R12W, Tyrone township, Kent county.

Point of ending: At Ransom lake in section 12, T11N, R12W, Grant township, Newaygo county.

(c) Shiawassee river trunk drain (Saginaw county)

Point of beginning: At the junction of the Shiawassee river and the Flint river in section 9, T11N, R4E, James township, Saginaw county.

Point of ending: At a point in mid-channel of said river in section 34, T10N, R3E, St. Charles township, Saginaw county, approximately 0.2 mile from the south line of section 34.

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(d) (i) Clinton river drain (Macomb county)

Point of beginning: The Market street bridge in the city of Mount Clemens.

Point of ending: The Red Run drain outlet.

(ii) Clinton river drain (Oakland county)

Point of beginning: At the intersection with Orchard Lake road on the north line of section 32, T3N, R10E, city of Pontiac.

Point of ending: At the intersection with Auburn road on the east line of section 27, T3N, R10E, city of Pontiac.

(e) Black river drain (Sanilac county)

Point of beginning: At the south line of section 6, T10N, R16E, Lexington township, Sanilac county.

Point of ending: At the north line of section 1, T12N, R14E, Custer township, Sanilac county.

(f) Maple river drain (Gratiot and Shiawassee counties)

Point of beginning: At highway US-27, section 28, T9N, R2W, Washington township, Gratiot county.

Point of ending: At its upper terminus in section 3, T6N, R3E, Shiawassee township, Shiawassee county.

(g) Little Thornapple river drain (Barry and Ionia counties)

Point of beginning: At the south line (M-43) of section 13, T4N, R8W, Carlton township, Barry county.

Point of ending: At the outlet from Tupper lake where the outlet enters Jordan lake in section 34, T5N, R7W, Odessa township, Ionia county.

(h) Kawkawlin river drain (Bay county)

Point of beginning: Mouth of river on Saginaw bay, in section 33, T15N, R5E, Bangor township, Bay county.

Point of ending: At the intersection with Euclid avenue on the west side of section 5, T14N, R5E, Bangor township, Bay county.

(i) St. Joseph river drain (Hillsdale county)

Point of beginning: At intersection of the line between sections 8 and 9, T8S, R4W, Camden township, Hillsdale county.

Point of ending: At a point 715 feet southeast of the line between sections 25 and 26, T8S, R4W, Camden township, Hillsdale county.

(j) East branch of St. Joseph river drain (Hillsdale county)

Point of beginning: At intersection of the line between sections 33 and 34, T7S, R1W, Pittsford township, Hillsdale county.

Point of ending: At intersection with the state line.

(k) Pigeon river drain (Huron county)

Point of beginning: At the mouth of the Pigeon river on Saginaw bay in the village of Caseville, including the mouth of the Pigeon river cut-off drain.

Point of ending: To a point ¾ mile south of Kinde road in section 1, T17N, R10E, Caseville township, Huron county.

(8) "Reasonable sanding of beaches to the existing water's edge by a riparian owner" means placing a layer of sand, free of organic or other pollutant materials, which does not shift the location of the existing ordinary high water mark or shoreline contour.

History: 1954 ACS 79, p. 21, Eff. May 11, 1974.

R 281.812 Permit applications.

Rule 2. (1) Permit application forms shall be obtained from the hydrological survey division of the department or from any field office of the department. In addition to the completed application form, the applicant shall submit the following:

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(a) An application fee made payable to the state of Michigan.

(b) A map or diagram in black ink, on 8½" x 13" sheet of white paper, showing the proposed project and indicating the location of the ordinary high water mark if known; the existing water's edge; the adjacent shoreline property and structures if known; and contour information depicting the topography of the site.

(c) The name and address of an officer of any appropriate property owners' association, as recorded with the county clerk of the county in which the proposed project will be located and the names and addresses of adjacent or opposite riparians.

(2) In the case of upland channeling, cross-section profiles of the channel and the adjacent upland and soil information may be required by the department in addition to a permit application.

(3) In case of pipeline crossing for the transportation of hydrocarbons, evidence of having on file an approved contingency failure plan with the water resources commission shall be submitted to the department.

(4) Proposed marina plans shall show fills, pilings and other structures including moorage areas, boat storage areas, turning basins and traffic lanes existing or proposed. The plan shall include the extent of the riparian lands and bottomlands proposed to be used.

(5) The applicant shall submit a statement that there is or is not litigation involving the property.

(6) The department may require the submission of other information that may be necessary to complete an assessment of the proposed project.

History: 1954 ACS 79, p. 22, Eff. May 11, 1974.

R 281.813 Permit conditions.

Rule 3. (1) A permit shall provide that the work specified therein shall be completed within a specified term, normally not more than 1 year from the date of issuance, or as otherwise determined by the department. An extension of time may be granted by the department. An administrative fee shall not be required for an application for an extension of time.

(2) When a proposed project requires the crossing of numerous streams, the applicant shall submit a preliminary site plan showing the proposed work and all lakes or streams. After completing a timely field investigation, the department shall advise the applicant of those crossings which require a permit under the act.

(3) All proposed projects which involve a lake or stream crossing shall be subject to the specifications and standards prescribed in rules.

(4) A permit does not obviate the necessity of receiving approval from the state department of public health or a local unit of government where applicable, including a local unit of government responsible for administering Act No. 245 of the Public Acts of 1970, being §§281.631 to 281.645 of the Michigan Compiled Laws, Act No. 347 of the Public Acts of 1972, being §§282.101 to 282.117 of the Michigan Compiled Laws, and the United States army corps of engineers, where applicable.

(5) The department shall issue a conditional permit when emergency conditions warrant a project to protect property or the public health and welfare.

(6) The department may issue a permit where extension of work performed under an earlier permit will result in less or no damage to natural resources.

(7) The department shall not issue a permit, except a conditional permit, until 30 days after the mailing of the list to each eligible subscriber, as provided for in subsection (1) of section 6 of the act.

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(8) Upon request, the department shall immediately provide any person a copy of a permit application and supporting documents, at cost of reproduction, if the documents are reproducible. If not reproducible, these documents may be examined at the department's office.

History: 1954 ACS 79, p. 22, Eff. May 11, 1974.

R 281.814 Environmental assessment.

Rule 4. In each application for a permit, all existing and potential adverse environmental effects shall be determined and a permit shall not be issued unless the department determines all of the following:

(a) That the adverse effects to the environment and the public trust are minimal and will be mitigated to the extent possible.

(b) That the resource affected is not a rare resource.

(c) That the public interest in the proposed development is greater than the public interest in the unavoidable degradation of the resource.

(d) That no feasible and prudent alternative location is available.

History: 1954 ACS 79, p. 23, Eff. May 11, 1974.

BRIDGE CONSTRUCTION

R 281.821 Bridge application procedures.

Rule 11. (1) Plans and specifications describing the proposed project should accompany the permit application form and be submitted to the hydrological survey division, department of natural resources, as soon as approved by the owner and at least 60 days prior to taking bids or initiating any work. Five copies of the plans and specifications should accompany the application form. Upon completion of a departmental review, the department shall issue the necessary permits under the act and Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.13 of the Michigan Compiled Laws.

(2) The following construction items require submission of plans and specifications:

(a) Programmed culvert replacements.

(b) Culverts replacing bridges.

(c) Bridges.

(d) Road improvement projects involving public waters.

(e) Structures affecting navigation.

History: 1954 ACS 79, p. 23, Eff. May 11, 1974.

R 281.822 Emergencies.

Rule 12. Culvert and bridge repairs or replacement may be made in an emergency situation upon contacting the department for verbal approval. A written report including details of emergency bridge and culvert repairs shall be forwarded to the department at the earliest practical date.

History: 1954 ACS 79, p. 23, Eff. May 11, 1974.

R 281.823 Bridge construction procedures.

Rule 13. (1) Each construction project should be completed so as to prevent erosion and subsequent damaging siltation of streams or lakes. The area of erodible land exposed to the elements by the grading operations at any one time shall be controlled by the owner's engineer and the duration of such exposure prior to final trimming, finishing or maintenance of the area should be as short as practical.

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(2) Gravel or stone, consisting of durable particles of rock and containing only negligible quantities of fines, shall be used for construction pads, haul roads and temporary roads in or across streams.

(3) When required by the department, a sedimentation basin shall be constructed downstream from the work site to trap silt and sediment resulting from construction operations. A detailed sketch of a sedimentation basin is available on request from the department. The collected silt and sediment shall be removed as directed by the owner's engineer and the sedimentation basin removed on completion of the project. As found necessary, the department will assist the owner in the design of a sedimentation basin.

(4) The disturbance of lands and waters that are outside the limits of construction as staked shall be avoided.

(5) The owner shall give written notice 5 days prior to the start of work.

History: 1954 ACS 79, p. 23, Eff. May 11, 1974.

R 281.824 Specifications.

Rule 14. (1) The department of state highways standard specifications (1970 or later editions) listed below are necessary for the protection of the natural resources. These specifications are intended to cover all construction and other related work as it affects natural resources found in and adjacent to the work areas.

(2) General coverage in proposal or specifications:

(a) Protection and restoration of property.....Sec. 1.07.07 Std. Specs.
(b) Forest protection .....Sec. 1.07.13 Specs.
(c) Control of water pollution and siltation .....Sec. 1.07.14 Specs.
(d) Borrow areas.....Sec. 2.08.01 Std. Specs.
(e) Borrow area restoration.....Supp. Specs.
(f) Channel excavation.....Sec. 2.09.05 Std. Specs.

(3) Additional department of state highways standard specifications covering measures for prevention of erosion and siltation:

(a) Topsoil surface .....Sec. 6.53 Std. Specs.
(b) Mulching.....Sec. 6.54 Std. Specs.
(c) Seeding .....Sec. 6.52 Std. Specs.
(d) Fertilizing.....Sec. 6.52 Std. Specs.
(e) Riprap (plain-heavy) .....Sec. 6.01 Std. Specs.
(f) Cobble gutter (plain-grouted).....Sec. 6.03 Std. Specs.
(g) Slope planting.....Sec. 6.55 Std. Specs.
(h) Dune grass planting .....Sec. 6.56 Std. Specs.
(i) Sodding.....Sec. 6.51 Std. Specs.
(j) Slope protection.....Sec. 6.01 Std. Specs.
(k) Crushed limestone surface.....Supp. Specs.
(l) Paved ditches.....Supp. Specs.
(m) Rye seeding.....Sec. 6.52 & Supp. Specs.

(4) The state highway design office has information for the design engineer on control of erosion through sodding; water control by catch basins, downspouts, concrete shoulders and spillways; borrow restoration, particularly adjacent to highway limits; seeding, mulching, and plantings. Standard plans are available as follows:

(a) Special outlet headwalls, etc. E-4-A-9F
(b) Sodding, etc. E-4-A-10D
(c) Paved ditches, etc. E-4-A-110C
(d) Shoulder gutter and spillway.....E-4-A-128

History: 1954 ACS 79, p. 24, Eff. May 11, 1974.

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PIPELINE AND OTHER UTILITY WATER CROSSING

R 281.831 Application procedures.

Rule 21. Plans for all underground utility projects where construction is contemplated to cross or be within 50 feet of a stream, lake or reservoir shall be furnished by the owner to the hydrological survey division of the bureau of water management of the department.

History: 1954 ACS 79, p. 24, Eff. May 11, 1974.

R 281.832 General requirements; all size pipelines and conduits.

Rule 22. (1) The owner or his agent shall submit general construction plans, including a route map and stream crossing specifications. These general plans and related documents shall be submitted not later than 3 months prior to the solicitation of bids and preferably the route plans should be reviewed with the department prior to acquisition of rights-of-way. Five copies of construction plans and specifications shall be submitted with the application.

(2) A pre-construction meeting shall be held if deemed necessary by either the department or the owner in order to thoroughly acquaint all concerned parties with the measures which must be taken to minimize erosion and siltation and properly protect the natural resources in the project area.

(3) Ten days' written notice shall be given to the department by the owner before the beginning of work.

(4) The owner shall take all necessary steps to prevent damage to fish and game habitat and to preserve the natural resources of the state. Excavation shall be carried out so as to minimize discharge of damaging material into any stream, lake, or reservoir.

(5) The work of clearing, scalping, grading, slope erosion protection, ditching, backfilling and final clean-up within 50 feet of streams, lakes, and reservoirs shall be completed within as short a period as reasonably possible in order to minimize erosion occurring from wind and precipitation.

(6) Trench excavation on any one spread shall be stopped when 10,000 feet remain open, except as authorized in the permit issued by the department.

(7) Replacing of bank plugs and grading of stream banks within 50 feet shall be accomplished immediately following pipe laying.

History: 1954 ACS 79, p. 24, Eff. May 11, 1974.

R 281.833 Special requirements.

Rule 23. Certain information and special protective measures may be required by the department at specified stream crossings. The following items, if required shall be outlined by the department to the owner either prior to or in the permit issued covering the job.

(a) Three days' oral notice of crossing, ditching, or blasting within 50 feet of certain stream crossings.

(b) Construction work across certain stream crossings may be prohibited within 3 days just preceding, or during, memorial day, independence day, or labor day holiday periods.

(c) Installation of approved warning signs may be required at certain stream crossings, to be located as directed by the department, to provide notice of pipeline crossing construction or excavation and shall be maintained by the owner until removal is authorized by the department or until the water crossing bed has been restored to normal.

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(d) Soil data on certain water crossings may be requested to determine the nature of soil to be encountered and to delineate possible trouble areas with regard to trench excavation limits. A plan and profile sheet of the water crossing may be requested by the department where soil data indicates a need therefor.

(e) Temporary sedimentation basins or cofferdams may be required for certain water crossings. In such case, the provisions for sedimentation basins hereinafter set forth shall apply.

History: 1954 ACS 79, p. 25, Eff. May 11, 1974.

R 281.834 Sedimentation basins and cofferdams.

Rule 24. (1) Sedimentation basins or cofferdams, where required, shall be constructed prior to any other work at the site crossing. A detail sketch of a sediment basin is available on request from the department.

(2) Temporary weirs or cofferdams are to be removed, including any materials trapped by them in the control of siltation, within 2 weeks of final clean-up. Intermittent removal of silt or sand during construction may be required for proper operation of sedimentation basins. In any event, the sedimentation basins shall be cleaned before removal.

(3) Weirs shall be constructed of continuous interlocking steel sheeting except where other substitute materials are authorized by the department. When specified by the department, a detail sheet of the weir installation will be furnished by the owner.

(4) The owner is responsible for securing the necessary approval of private land owners where temporary additional right-of-way or easement is necessary to construct and operate a settling basin. An easement is not required in locations where the crossing is made on state owned lands.

History: 1954 ACS 79, p. 25, Eff. May 11, 1974.

R 281.835 Haul roads.

Rule 25. (1) Temporary haul roads crossing streams shall be constructed of coarse aggregate with culverts or logs or both laid parallel to the stream. Only coarse aggregate or metal or wood mats may be used as a running surface on log construction. The side slopes shall be protected with permanent riprap, as specified in R 281.836, up to a level 2 rows above the normal water level and over the ends of the culverts.

(2) Permanent haul roads crossing streams (roads that are to be left in place at the request of the property owner) will require a permit under Act No. 245 of the Public Acts of 1929, as amended. Plans and specifications for such crossing shall be prepared by a registered professional engineer and submitted by the property owner along with his application for a permit to construct the facilities.

(3) Both temporary and permanent haul roads shall have adequate top width to permit passage of all construction equipment without sloughing of side slopes.

(4) Culverts of adequate size and length, approved by the department, are required in both temporary and permanent haul roads.

(5) Fording of streams is permitted only where it will not cause either erosion or siltation.

History: 1954 ACS 79, p. 25, Eff. May 11, 1974.

R 281.836 Trench excavation.

Rule 26. (1) All pipe trenches shall be excavated to a depth which will provide a minimum cover of 30 inches from the bed of the stream to the top of the pipe.

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This minimum cover shall control except where special conditions at certain water crossings may warrant a lesser or greater depth of cover.

(2) Appropriate trench excavation methods shall be employed to minimize material from the pipe trench flowing into the stream, giving due consideration to the soil, terrain, cover, side slopes and weather conditions involved.

(3) The pipe trench excavation shall stop some distance from the stream to leave a protective plug of 10 to 20 feet of unexcavated material at each bank. The plugs shall be left in place until the pipe laying operation across the stream has begun. Bypassing of water in the trench to the side by diversion ditches or by pumping may be required at certain water crossings.

(4) The trench in the stream bed may be backfilled if the material used does not cause excessive siltation. Stone, coarse aggregate or washed gravel shall be used where backfill is required and where use of existing material will cause excessive siltation.

(5) Pumping or draining from trench excavations shall be made on either side of the pipeline and not into the waters of the state. The owner shall secure the necessary approval of private land owners before discharging water from the trench excavation onto private lands.

History: 1954 ACS 79, p. 28, Eff. May 11, 1974.

R 281.837 Stream bank protection.

Rule 27. (1) Following the installation of the pipeline or cable, all work areas along or across streams or lakes shall be restored immediately and the exposed beds and banks shall not remain unprotected over 7 days, except where subsequent permission is provided for a pumping and testing operation.

(2) All disturbed stream banks shall have a finished slope no steeper than 1 on 2 (1 vertical and 2 horizontal) to prevent sloughing until stabilized by vegetative cover or riprap. The 1 on 2 slope shall be graded up and back to the high water line. If the top of the natural bank is more than 3 feet above the high water line, a minimum 10-foot berm shall be constructed at this level and the remaining slope constructed upward parallel with or on a flatter slope than the original natural bank.

(3) All raw soil exposed above the permanent riprap protection line shall be either sodded, riprapped or seeded, fertilized and mulched. Temporary riprap (sandbags) may be used.

(4) Mulch is to consist of 3 inches of straw or other approved material. Mulch on slopes greater than 10% shall be held in place by a spray of asphalt type SS-IS emulsion mixed with an equal amount of water.

(5) Seeding and fertilizing rates shall be as follows:

(a) Fertilizer per acre, 200 pounds of 6-24-24.

(b) Seed per acre, 10 pounds Kentucky 31 fescue, 3 pounds Birdsfoot trefoil and 3 pounds white clover.

(6) Permanent riprap shall be placed from the bed of the channel to 3 feet above normal high water line or to the top of the bank. Permanent riprap shall be 5 to 1 mix of sand to cement in burlap or canvas bags, sackrete, broken concrete, man-size rock or other material approved by the department. Sackrete where used shall be transferred to burlap or canvas bags.

(7) Deflection dikes, reinforced by 1 row of sandbags, shall be used to divert runoff and minimize slope erosion from steep slopes adjacent to water crossings, where the contributing runoff could be great enough to cause slope erosion. Water shall be diverted to undisturbed areas adjacent to the right-of-way.

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(8) Deflection dikes shall be placed along the top of all stream banks where the entire slope is not protected with riprap. They shall also be placed at the top of and at 100-foot intervals or less on slopes greater than 20%.

History: 1954 ACS 79, p. 26, Eff. May 11, 1974.

R 281.838 Final clean-up.

Rule 28. Final clean-up shall consist of removing the temporary haul road across the stream; reshaping the stream as nearly as possible to its original configuration, width, depth and bottom material; protection of the stream banks as specified in R 281.837; and removing all construction material and debris from the crossing site, including any material and debris downstream from the site as a result of the pipeline construction.

History: 1954 ACS 79, p. 27, Eff. May 11, 1974.

R 281.839 Use of water for cleaning and testing pipeline.

Rule 29. (1) The cleaning and testing procedure shall be conducted in a manner that will minimize potential problems which might affect fish and game habitat or other natural resources of the state.

(2) Water used for filling the pipeline may be taken from a lake, stream or reservoir, if a written request is made to the department and the requisites listed below are met. In addition, location of points for discharge of cleaning and testing water shall be approved in advance by the department:

(a) Erosion or siltation are to be minimized.

(b) Appropriate releases from the affected riparians shall be obtained where the rate at which water is taken to fill a pipe is more than 30% of the flow at the time or if a state-owned lake or reservoir is exhausted beyond 15% of the total volume.

(c) Water containing detergent or rust from the pipe itself shall be discharged so as to prevent its flowing into any stream, lake or reservoir except where a special request for this specific procedure is made.

(d) Water used for hydrostatic testing shall be discharged in a manner and at a location which minimizes erosion or siltation to any stream or public reservoir, and which does not result in thermal pollution of any trout waters.

(e) The rights of downstream riparians shall be recognized and observed regardless of approval or a no objection statement from the department.

History: 1954 ACS 79, p. 27, Eff. May 11, 1974.

R 281.841 Bulkhead lines.

Rule 31. (1) An application by a local unit of government for the establishment of a bulkhead line pursuant to section 9 of the act shall be made by resolution adopted thereby requesting the department to hold a public hearing for the purpose of considering establishment thereof. The hearing shall be held in the applicant's jurisdiction pursuant to section 6 of the act.

(2) An ordinance adopted by a local unit of government to exercise control landward of an established bulkhead line shall be consistent with the act and in accordance with these rules. The local unit of government shall submit a proposed ordinance to the department for review and approval prior to formal adoption thereby. A copy of an application received by a local unit of government pursuant to its ordinance shall be forwarded to the hydrological survey division prior to issuance of a permit. Variance from the ordinance shall not be granted unless approved by the department.

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(3) When establishing a bulkhead line on its own application, the department may retain jurisdiction over the area landward of the bulkhead line to the ordinary high-water mark.

History: 1954 ACS 79, p. 27, Eff. May 11, 1974.

R 281.842 Notification of pending applications.

Rule 32. The list prepared and mailed by the department pursuant to subsection (1) of section 6 of the act will include permit applications received during each week and projects for which permits have been issued. The list shall be mailed weekly to each subscriber. The list includes information on process number, job name, applicant name and address, watercourse, watershed, location of proposal by town, range and section and project description.

History: 1954 ACS 79, p. 27, Eff. May 11, 1974.

R 281.843 Hearings.

Rule 33. (1) The department may hold a public informational hearing when a proposed project appears to be controversial, or where additional information is desired prior to action by the department. The department shall make a determination on the permit application within 30 days following the hearing.

(2) All other hearings shall be conducted in accordance with subsection (2) of section 11 of the act.

(3) All persons who receive notification under subsection (1) of section 6 of the act shall receive at least 10 days' prior notification of any hearings held under this act.

History: 1954 ACS 79, p. 28, Eff. May 11, 1974.

R 281.844 Inspection and certification of completed project.

Rule 34. (1) The applicant shall notify the hydrological survey division within 48 hours of completion of the project to facilitate scheduling a final inspection prior to certification.

(2) The department shall schedule its field inspection of a completed project only when weather conditions will permit a thorough inspection thereof.

History: 1954 ACS 79, p. 28, Eff. May 11, 1974.

R 281.845 Special conditions.

Rule 35. Whenever vertically upward bottomland displacement, also called surcharge, results from filling or other activity immediately adjacent to the displacement area by the applicant, he shall be responsible for its timely removal at the direction of the department.

History: 1954 ACS 79, p. 28, Eff. May 11, 1974.

R 281.846 Rescission.

Rule 36. The rules of the department entitled "Inland Lakes and Streams" being R 281.801 to R 281.810 of the Michigan Administrative Code and appearing on pages 4120 to 4122 of the 1967 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 79, p. 28, Eff. May 11, 1974.

GREAT LAKES SUBMERGED LANDS

(By authority conferred on the department of conservation by section 9 of Act No. 247 of the Public Acts of 1955, section 252 of Act No. 380 of the Public Acts of 1965, and sections 2 and 4 of Act No. 197 of the Public Acts of 1952, as amended, being §§322.709, 16.352, 24.102, and 24.104 of the Michigan Compiled Laws)

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R 281.901 Scope and definitions.

Rule 1. (1) These rules are promulgated for the purpose of implementing Act No. 247 of the Public Acts of 1955, as amended, being §§322.701 to 322.711 of the Michigan Compiled Laws, hereinafter referred to as the act.

(2) "Ordinary high-water mark" means the line between upland and bottomland which persists through successive changes in water levels, and below which the presence and action of the water is so common or recurrent as to mark upon the soil a character, distinct from that which occurs on the upland, as to the soil itself, the configuration of the surface of the soil and the vegetation. When the soil, configuration of the surface or vegetation have been altered by man's activity, the ordinary high-water mark shall be located where it would have been if this alteration had not occurred.

(3) "Department" means the department of conservation.

(4) "Bottomland" means lands in the Great Lakes and bays and harbors thereof lying below and lakeward of the ordinary high-water mark.

(5) "Marina" means a dock, wharf, pier, mooring space, or other facility used for the servicing of watercraft of any size and kind which are used (a) for the business of transporting public or private passengers or freight, or (b) for recreational purposes and the marina is available to the public and charges are made for any of its services.

(6) "Submerged patented lands" means any submerged lands lying within a specific legal government grant area.

(7) "Upland" means the riparian or littoral property contiguous to the bottomland for which application is made.

History: 1954 ACS 51, p. 11, Eff. Aug. 15, 1967.

R 281.902 Applications; forms and number.

Rule 2. Application forms for deeds, leases, agreements, permits, or certificates shall be obtained from the lands division, department of conservation, Lansing, Michigan, or from any field office of the department. A separate application shall be filed for each separate parcel of filled or unfilled unpatented lake bottomland, or water area over patented submerged land, or for a certificate of boundary, except that 1 application may be accepted for more than 1 parcel of bottomland fronting on a single upland ownership.

History: 1954 ACS 51, p. 11, Eff. Aug. 15, 1967.

R 281.903 Applications; contents.

Rule 3. An application of any kind shall indicate the extent of the applicant's riparian interest and shall include the names and addresses of adjoining riparian owners. The extended lines of a description of bottomland for which application is made shall not enter the area of riparian rights held by any other riparian owner. The application shall indicate that the applicant is the direct abutting upland owner opposite the bottomland or water area applied for or opposite the boundary requested to be certified or that he otherwise has a legal right to file the application.

History: 1954 ACS 51, p. 11, Eff. Aug. 15, 1967.

R 281.904 Applications; title evidence and maps.

Rule 4. (1) An application for a deed, lease, agreement, or certificate shall be accompanied by evidence of title consisting of an abstract of title, title insurance or other evidence deemed by the department sufficient to entitle the applicant to receive a deed, lease, agreement, or certificate.

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(2) Application for a deed, lease, agreement, or certificate shall be accompanied by a map on 1 or more sheets of substantial paper or tracing cloth, including blueprints or their equivalent, excluding tracing paper, and prepared by a registered land surveyor. The map shall show the upland property owned by the applicant and the bottomland or water area applied for, or the location of the boundary to be certified, together with the water's edge at the time of the survey. The ordinary high-water mark shall also be shown. The map shall be prepared at a scale not smaller than 100 feet to an inch. The survey shall be by metes and bounds and shall be tied to a legal corner of a subdivision, according to the original government survey, of a private claim, or of any lot, block or boundary corner of a recorded subdivision or plat generally accepted and used for legal conveyancing of property in the area. The corner shall not be located on submerged land of the Great Lakes at the time the survey is made. All angles and lines measured on or from the upland used to calculate by triangulation the position of any points or lines on bottomland shall be shown. The survey description of the areas applied for and the certification by a registered surveyor shall appear on the face of the map.

History: 1954 ACS 51, p. 11, Eff. Aug. 15, 1967.

R 281.905 Surveys of bottomland filled or to be filled.

Rule 5. In addition to the requirements of R 281.904 where unpatented bottomland is filled or to be filled, or patented bottomland is to be filled, the survey shall show the location of the ordinary high-water mark with relation to the outermost edge of any sheet piling, shoring, cribwork, seawall, or similar installation providing for a vertical face. Where no such installations have been placed, the survey lines shall run along the outermost edge of the base of the natural slope of the material used for making and protecting the fill. Such lines may be straight, curved, or similarly regular along practical courses rather than following the exact irregular edges of such fill bases, but shall follow such edges as closely as practicable along average lines.

History: 1954 ACS 51, p. 12, Eff. Aug. 15, 1967.

R 281.906 Approvals by governmental agencies and units.

Rule 6. The approvals of governmental agencies and units shall accompany the application as follows:

(a) Action by the United States corps of engineers shall be in permit or letter form to the applicant and shall indicate the consent or nonobjection of the corps from the standpoint of federal navigation.

(b) Approval by the state waterways commission shall be in letter form to the applicant and shall indicate the consent or nonobjection of the commission.

(c) Approval by a local unit of government shall be in the form of a certified copy of a resolution of its legislative body.

History: 1954 ACS 51, p. 12, Eff. Aug. 15, 1967.

R 281.907 Marinas.

Rule 7. (1) When an application is made for bottomland or water area for marina purposes, the protection and enhancement of the public interest in the bottomlands and waters of the Great Lakes shall be of primary concern. The department will consider the character and current uses of adjacent shore and lake properties and local zoning ordinances. An applicant may be required to furnish supporting evidence satisfactory to the department that marina services in the locality are necessary.

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(2) The survey in addition to other requirements, shall show all fills, pilings, structures, and improvements including mooring area, boat storage, turning basins, and traffic lanes, existing at the date of the application or to be constructed or located thereafter, and the location, number, and size of all boat wells or slips.

History: 1954 ACS 51, p. 12, Eff. Aug. 15, 1967.

R 281.908 Marinas; leases.

Rule 8. (1) A lease for marina purposes shall not exceed a term of 50 years and shall provide for its renewal or extension upon satisfactory performance during the prior term.

(2) The lease shall provide for an advance annual rental equal to 10% of the fair cash value of the bottomland covered by the lease less the value of any improvements. In any case, the annual rental shall not be less than $50.00. If economic conditions change, the lessee may petition the department for a redetermination of the annual rental.

(3) The lease shall provide that the lessee remove structures and improvements on the leased premises after nonuse or abandonment, and piling and other hazards to safety and navigation when required by the department.

(4) An assignment or other agreement affecting the lease is not valid except after written approval by the department. An executed copy of the assignment or agreement shall be furnished to the department.

History: 1954 ACS 51, p. 12, Eff. Aug. 15, 1967.

R 281.909 Marinas; bonds.

Rule 9. The applicant for marina purposes shall file a surety bond or other assurance satisfactory to the department immediately after final approval by the state administrative board and before execution of the lease by the department, conditioned that he will truly and faithfully perform the covenants, conditions and agreements specified in the application and lease and further conditioned that all pilings or other structures that may be a hazard to navigation or interfere with the public trust, be removed upon cancellation or termination of the lease. The amount of the bond shall be determined by the department and be commensurate with the financial obligations incurred in fulfilling all covenants, conditions, agreements, and requirements of the application and lease. The bond shall be in effect for the period of the lease term, plus 2 years.

History: 1954 ACS 51, p. 12, Eff. Aug. 15, 1967.

R 281.910 Marinas; termination of leases.

Rule 10. (1) A lease shall be forfeited and all rights thereunder terminated if the lessee fails to start and proceed with due diligence to complete the marina within 2 years from the date of the lease or a longer period of time set forth in the lease, or if the lessee, for any consecutive 2 years or longer period set forth in the lease, fails to operate the marina. The department, upon request of the lessee, may extend such periods.

(2) Upon expiration of the lease or upon non-use or abandonment of the leased premises for marina purposes, and following performance of the requirements outlined in R 281.909, the lessee shall execute and deliver to the department a recordable release of all his rights and interests in the leased premises. The release shall not become effective until the lease and surety bond requirements and obligations have been met and the bond duly discharged.

History: 1954 ACS 51, p. 13, Eff. Aug. 15, 1967.

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R 281.911 Application fees.

Rule 11. The application fee required by the act shall accompany an application and be remitted by check, money order, or bank draft. A fee is not required for a permit to excavate, dredge, or place spoil or other materials on bottomland. Upon approval by the state administrative board of the deed, lease, agreement, or certificate, the applicant is entitled to credit of the application fee against any additional consideration required to be paid.

History: 1954 ACS 51, p. 13, Eff. Aug. 15, 1967.

R 281.912 Processing of applications by department.

Rule 12. (1) An application for a permit to alter or maintain an existing channel or to excavate a new channel for the purpose of accommodating small pleasure craft or for beach improvement may be filed with any field office of the department or a local conservation officer. A local conservation officer may issue a permit for such a purpose if there is no substantial damage to or interference with any public interest, including fishing, hunting, swimming, pleasure boating, or navigation. Where he observes such excavation or improvement and a permit has not been issued, he shall inform the riparian owner of the requirement for a permit and upon application, shall issue a permit if the project is within the scope of this paragraph.

(2) The department may require acquiescence or approval in writing by adjacent riparian owners if the application raises questions concerning lines of riparian rights extended or interference with adjacent riparian owners. Failure to settle a dispute concerning riparian lines extending over bottomland shall be resolved by the courts before further action is taken by the department.

(3) The department reserves the right to offer such deed, lease, agreement, or certificate as will best serve the public interest.

(4) In case of a project for a fill, the department may require a surety bond or other acceptable guarantee depending on the nature of the project and ability of the applicant to complete the project satisfactorily during the period of construction.

History: 1954 ACS 51, p. 13, Eff. Aug. 15, 1967.

R 281.913 Criteria for considering applications.

Rule 13. (1) When an application is made for unpatented, unfilled lake bottomland or for a water area over patented lake bottomland or for certification of boundaries, the act shall be construed to preserve and protect the interests of the general public. The maintenance of the shoreline and the preservation of the public trust are of primary concern.

(2) An application for the purposes of flood, shore erosion, drainage or sanitation control will be considered where need for such control is necessary.

(3) An application for straightening shorelines will be considered where it is desirable to establish a smooth, free-flowing shoreline, free of natural or man-made irregularities or those caused by other activities of man beyond the control of the applicant.

(4) Any other application for filling bottomlands or water areas will be considered when in the public interest or when it will not substantially affect the public trust.

History: 1954 ACS 51, p. 13, Eff. Aug. 15, 1967.

R 281.914 Consideration.

Rule 14. (1) In determining the consideration to be paid for the conveyance of unpatented bottomland filled prior to October 14, 1955, the improvements which

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are to be excluded in determining the fair cash market value of the property are construed to be buildings, equipment attached to the land, installations, other improvements placed on the land after filling, erosion control works such as sheet piling, shoring, cribwork, seawalls, or similar installations to protect fills from erosion.

(2) The consideration to be paid for the conveyance of unpatented bottomlands shall not be less than the fair cash market value of the lands less improvements but in no case less than $50.00 or less than 30% of the value of the land as determined from the value of adjacent uplands.

(3) No consideration is required for a permit or agreement to fill or occupy water areas over patented lands except the $50.00 filing fee.

History: 1954 ACS 51, p. 14, Eff. Aug. 15, 1967.

R 281.915 Hearings.

Rule 15. The department upon its own motion, or upon the request of any interested party, may hold a hearing before consideration of any application for a deed, lease, agreement, boundary certificate, or permit to fill or dredge unpatented bottomland or water area over patented bottomland. Any hearing under these rules shall be conducted in accordance with Act No. 197 of the Public Acts of 1952, as amended, being §§24.101 to 24.110 of the Michigan Compiled Laws. The department shall give notice of the hearing to known interested parties including adjoining riparians. Notice of a hearing shall be by certified mail, return receipt requested, to the sendee's last known address on file with the department, or by at least 1 publication in a newspaper of general circulation in the county where the affected waters lie, in either case, not less than 20 days before the hearing. On termination of the hearing, and after review of the testimony, a decision shall be made on the merits and the application approved or disapproved, and thereafter if approved, shall be submitted to the conservation commission and state administrative board for final disposition.

History: 1954 ACS 51, p. 14, Eff. Aug. 15, 1967.

MARINE AND RECREATIONAL VEHICLE SECTION

GENERAL RULES

(By authority conferred on the department of conservation by sections 27 and 151 of Act No. 303 of the Public Acts of 1967, being §§281.1027 and 281.1151 of the Michigan Compiled Laws)

PART 1. REGATTAS AND MARINE PARADES

R 281.1001 Definitions.

Rule 1. The terms defined in Act No. 303 of the Public Acts of 1967, being §§281.1001 to 281.1199 of the Michigan Compiled Laws, have the same meaning when used in these rules.

History: 1954 ACS 53, p. 5, Eff. Feb. 14, 1968.

R 281.1002 Applications; filing and contents.

Rule 2. An individual or organization planning to hold a regatta or marine parade on the waters of this state shall file with the director an application for a sanction to hold such event. The application shall include the following:

(a) Name and address of applicant.

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(b) Name and address of sponsoring organization.
(c) Name, address and telephone number of person in charge of event.
(d) Nature and purpose of event.
(e) Location where the proposed event is to be held, including body of water, township and county.
(f) Sketch of the body of water showing portion to be used for the event, including dimensions.
(g) Date and hours of proposed event.
(h) Time schedule and description of event.
(i) Estimated number and types of vessels participating in event.
(j) Estimated number and types of spectator vessels.
(k) Number of vessels to be furnished by sponsoring organization to patrol event.
(l) Number of vessels to be furnished by county sheriff's department for patrol to protect the public interest and safety.
(m) Information as to general public interest in the event.
(n) Signature of applicant.

History: 1954 ACS 53, p. 5, Eff. Feb. 14, 1968.

R 281.1003 Action by director on applications.

Rule 3. (1) The director shall determine whether the proposed regatta or marine parade may be held in the proposed location with safety of life and property. To assist in his determination, if he deems it necessary, he may hold a public hearing to obtain the views of all persons interested in, or who will be affected by, the regatta or marine parade.

(2) The director shall notify the applicant of 1 of the following decisions and issue a sanction for the event in case it is approved:

(a) That the application is approved and the event requires no restriction or patrol of the regatta or marine parade area.

(b) That the application is approved, and the nature of the limited restrictions, if any, which he has established pursuant to R 281.1004.

(c) That the interest of safety of life and property on the waters of this state requires specific change or changes in the application before it can be approved.

(d) That the application is disapproved, with reasons for such disapproval.

(3) Where such events are to be held regularly or repeatedly in a single area by an individual or organization, the director, subject to conditions established by him, may issue a sanction for such series of events for a fixed period not to exceed 1 year.

History: 1954 ACS 53, p. 6, Eff. Feb. 14, 1968.

R 281.1004 Limited restrictions on water activities in area.

Rule 4. In approving a regatta or marine parade, the director in the interest of safety may establish limited restrictions on the movement of vessels or other water activities in the immediate area of the event. The restrictions shall be limited to the time immediately prior to, during and immediately after the approved regatta or marine parade.

History: 1954 ACS 53, p. 6, Eff. Feb. 14, 1968.

R 281.1005 Public notice of events and limited restrictions.

Rule 5. (1) After approving a regatta or marine parade and establishing limited restrictions pertaining thereto, the director shall give the public full and adequate notice of the time and location of the regatta or marine parade, together with full and complete information as to the limited restrictions.

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(2) After approving a regatta or marine parade and determining that limited restrictions are not necessary, the director may require the sponsors of the event to give the public full and adequate notice of the time and location of the event.

(3) Notices under this rule shall be published at least once, not less than 5 days prior to the holding of the event, in a newspaper of general circulation in the area where the event will be held.

History: 1954 ACS 53, p. 6, Eff. Feb. 14, 1968.

R 281.1006 Patrol of regattas and marine parades.

Rule 6. The director, if he deems it necessary for safety, may require 1 or more marine enforcement vessels to patrol the course of the regatta or marine parade for the purpose of enforcing not only the limited restrictions, but also for assistance of persons or property in peril, and the enforcement of laws generally. Issuance of the sanction may be made contingent upon meeting the requirement for patrol vessels.

History: 1954 ACS 53, p. 6, Eff. Feb. 14, 1968.

R 281.1007 Aids to navigation.

Rule 7. The director may require the sponsors of an approved regatta or marine parade to establish aids to navigation as he deems necessary to assist in the observance and enforcement of the limited restrictions established by him or are incidental to the holding of the regatta or marine parade.

History: 1954 ACS 53, p. 6, Eff. Feb. 14, 1968.

PART 2. WATERCRAFT CAPACITY AND HORSEPOWER FORMULA

R 281.1021—R 281.1026 Rescinded.

History: 1954 ACS 55, pp. 5-8, Eff. Aug. 14, 1968; rescinded 1954 ACS 82, p. 11, Eff. Jan. 1, 1975.

PART 3. STATE AID FOR MARINE SAFETY PROGRAMS

R 281.1031 Definitions.

Rule 31. (1) As used in these rules:

(a) "Act" means Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws.

(b) "Need study" means a study conducted by the department to assist in determining the amount of state aid to be allocated to a county for its marine safety program.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 55, p. 9, Eff. Aug. 14, 1968; 1954 ACS 95, p. 27, Eff. May 20, 1978.

R 281.1032 Requests for state aid.

Rule 32. The county clerk of a county requesting state aid for the conduct of a marine safety program shall, by December 31 of each year, submit to the department an estimate of authorized expenditures for the following calendar year on forms furnished by the department. The estimate of authorized expenditures shall consist of a complete statement on the type and extent of the marine safety program to be conducted and a certification that the board of commissioners has appropriated the funds indicated on the estimate of authorized expenditures. Submission of an estimate of authorized expenditures by a county is deemed an agreement by the county to comply with these rules.

History: 1954 ACS 55, p. 9, Eff. Aug. 14, 1968; 1954 ACS 95, p. 27, Eff. May 20, 1978.

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R 281.1033 Marine safety functions.

Rule 33. (1) Equipment which has originally been purchased with state matching funds or has been included in a claim for which reimbursement has been made in accordance with the act and these rules shall be used exclusively in the conduct of the marine safety program.

(2) Marine safety laws applicable to waters within the county's jurisdiction shall be enforced. Court disposition shall be submitted on forms prescribed by the department.

(3) Marine complaints and marine violations within the county's jurisdiction including those referred to the county by the department, shall be investigated.

(4) The department shall purchase uniform vessel violation notices and furnish them to the counties participating in the marine safety program. A county may purchase vessel violation notices provided the violation notice contains the minimum information contained on the uniform vessel violation notice furnished by the department. A participating county shall issue vessel violation notices for violation of marine safety laws and rules promulgated in accordance with marine statutes.

(5) Marine accidents occurring within the county's jurisdiction shall be investigated and required reports submitted.

(6) Reasonable efforts shall be made to recover bodies of persons drowned in waters within the county's jurisdiction but outside the corporate limits of a city.

(7) Livery boats within the county shall be inspected for compliance with Act No. 257 of the Public Acts of 1952, as amended, being §281.561 et seq. of the Michigan Compiled Laws, and rules established thereunder.

(8) Equipment purchased or leased under the state aid program shall be made available to the director or his authorized representative for the purpose of inspection, investigation, or other official duties.

(9) Cooperation with the United States coast guard, other counties of the state, the Michigan state police, and the department, shall be given upon request of the director or his authorized representative.

History: 1954 ACS 55, p. 9, Eff. Aug. 14, 1968; 1954 ACS 95, p. 27, Eff. May 20, 1978.

R 281.1034 Personnel.

Rule 34. (1) Personnel assigned to marine safety duties shall be mentally and physically capable of performing the duties to which they are assigned. They shall have a good knowledge of the provisions of Act No. 303 of the Public Acts of 1967, as amended, Act No. 257 of the Public Acts of 1952, as amended, Act No. 139 of the Public Acts of 1947, being §§281.1001 et seq., 281.561 et seq., and 51.301 et seq. of the Michigan Compiled Laws, and all rules promulgated in accordance with the provisions of such acts. They shall have a good knowledge of the powers, duties, and limitations of authority of peace officers and a thorough knowledge of the operation of small boats. The authority of personnel who have not completed the required hours of training pursuant to Act No. 187 of the Public Acts of 1970, being §§28.601 to 28.616 of the Michigan Compiled Laws, shall be restricted to the following acts:

(a) Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws, and rules and local ordinances established in accordance with the provisions of the act.

(b) Act No. 167 of the Public Acts of 1970, being §§323.331 to 323.342 of the Michigan Compiled Laws, and rules established in accordance with the provisions of the act.

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(c) Act No. 106 of the Public Acts of 1963, being §§752.901 to 752.906 of the Michigan Compiled Laws.

(d) Act No. 257 of the Public Acts of 1952, being §§281.561 to 281.569 of the Michigan Compiled Laws, and rules established in accordance with the provisions of the act.

(e) Act No. 228 of the Public Acts of 1965, being §§281.801 to 281.813 of the Michigan Compiled Laws, and rules established in accordance with the provisions of the act.

(f) Act No. 139 of the Public Acts of 1947, being §§51.301 to 51.302 of the Michigan Compiled Laws.

(g) Sections 167 to 168 of Act No. 328 of the Public Acts of 1931, being §§750.167 and 750.168 of the Michigan Compiled Laws.

(2) Such personnel shall actively cooperate with the director or his representatives including but not limited to, the answering of questions, making reports, and showing records as requested.

(3) Hourly pay rates for personnel assigned to marine safety duties shall not exceed the hourly rates of other personnel assigned to similar duties within the county sheriff's department.

(4) Personnel assigned to marine safety duties shall not be paid overtime or premium pay unless such personnel have worked in excess of 40 hours on marine safety duties in a scheduled work week. Overtime may be paid for hours worked in excess of 40 hours if approved by the county sheriff or immediate supervisor.

(5) A county sheriff is not eligible to receive payment of salary or wages from the marine safety fund.

History: 1954 ACS 55, p. 9, Eff. Aug. 14, 1968; 1954 ACS 95, p. 28, Eff. May 20, 1978.

R 281.1035 Publicity, records, and reports.

Rule 35. (1) Publicity shall be disseminated by the county regarding existing laws and rules and any new laws or rules which may be established. Persons shall be provided with information regarding safe methods of vessel operation.

(2) Public information provided by the department shall be distributed by the county.

(3) The county shall maintain records pertaining to marine violations, marine related accidents, body recovery, livery boat inspections, boating safety education, public meetings attended, daily vehicle mileage, daily personnel time records, and marine program expenditures.

(4) Daily time records shall be maintained by the county for each employee assigned to marine safety duties. Reimbursement to the county shall be made for hours actually worked in the marine safety program as documented by daily time records.

(5) Reports as may be required by the director or his authorized representative shall be submitted by the county.

(6) A detail of authorized expenditures actually incurred shall be submitted to the department by the county and shall be certified as true and correct.

History: 1954 ACS 95, p. 28, Eff. May 20, 1978.

R 281.1036 County restricted marine safety funds.

Rule 36. Using the county appropriation for the conduct of a marine safety program for the following calendar year the county treasurer or fiscal officer shall establish a restricted marine safety fund for such calendar year. Special account numbers and expenditure voucher retention procedures shall be as directed by the local audit division of the state department of treasury. Expenditures from the

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fund shall be made solely for the payroll and authorized expenditure costs of the marine safety program.

History: 1954 ACS 55, p. 10, Eff. Aug. 14, 1968.

R 281.1037 State aid claim vouchers.

Rule 37. (1) Within 90 days after the close of the calendar year for which a county has submitted the required certified resolution and the estimate of authorized expenditures and has conducted the marine safety program, the county fiscal officer shall file a state aid claim voucher with the department on forms provided by the department. State aid claim vouchers, or supplements thereto, received subsequent to such 90-day period are not eligible for payment.

(2) The director or his authorized representative shall review a state aid claim voucher and shall certify the claim for payment in accordance with the following procedure:

(a) Expenditures not in accordance with the act, the schedule of authorized expenditures, and these rules shall be deducted.

(b) The department shall certify for payment the lesser of the following:

(i) Two-thirds of the total of the claim voucher after all necessary adjustments have been made.

(ii) The amount of state aid originally approved on the county's marine budget.

History: 1954 ACS 55, p. 10, Eff. Aug. 14, 1968; 1954 ACS 95, p. 29, Eff. May 20, 1978.

R 281.1038 Authorized expenditures.

Rule 38. (1) Two-thirds of the payroll and other expenditures when made in accordance with the schedule of authorized expenditures prepared by the director and with these rules shall, subject to R 281.1037, be reimbursable to a county upon submission of a claim. However, other items of expenditures may be authorized if found to be reasonable and necessary. Prior approval of an expenditure not contained on the schedule of authorized expenditures shall be obtained from the department in writing; otherwise, such expenditure shall not be considered an authorized expenditure and shall not qualify for reimbursement.

(2) If authorized equipment, which has originally been purchased with state matching funds or has been included in a claim for which reimbursement has been made in accordance with the act and these rules, is in need of replacement, the trade-in value or fair market value shall not be included in the claim for reimbursement for the purchase of new equipment.

(3) Receipts from the sale of any equipment and gas tax and insurance premium refunds shall be deposited to the credit of the county marine safety fund and deducted from the claim on the state aid voucher form R 9250.

History: 1954 ACS 55, p. 10, Eff. Aug. 14, 1968; 1954 ACS 95, p. 29, Eff. May 20, 1978.

R 281.1039 Withholding and denying payment of claims.

Rule 39. (1) The department reserves the right to withhold payment of a claim pending investigation of the details of such claim.

(2) The department reserves the right to deny payment of a claim, or part thereof, which is not in accordance with the schedule of authorized expenditures or for which prior written authorization was not obtained from the department.

(3) The department reserves the right to deny payment of a claim if any part of such claim is found to be false and submitted with intent to defraud.

(4) The department reserves the right to deny payment of a claim for compensation paid to personnel deemed to be unfit to carry out the duties assigned to them.

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(5) The department reserves the right to deny payment to any county which, in the opinion of the director, after investigation and written notice, is not adequately conducting a marine safety program, is not submitting the required reports, or is not complying with these rules.

History: 1954 ACS 55, p. 11, Eff. Aug. 14, 1968; 1954 ACS 95, p. 29, Eff. May 20, 1978.

R 281.1040 Discontinuance of county participation in state aid.

Rule 40. (1) If a county discontinues participation in the state aid program, the county clerk shall, by December 31 of the year prior to discontinuance, notify the department of the county's decision by certified resolution. Upon submission of a state aid voucher for the final calendar year of county participation, a deduction shall be made from the total state aid voucher of the fair market value of all authorized equipment previously included in a claim for which reimbursement has been made in accordance with the act and these rules. For those years when a proration was applicable to equipment purchases, such proration shall be taken into consideration.

(2) When the fair market value of such authorized equipment exceeds the total claim for the final year of county participation, ⅘ of such excess, excluding the proration, if applicable, shall be refunded to the department by the county and deposited in the state treasury to the credit of the marine safety fund.

(3) If the county is utilizing equipment furnished by the department without expense to the county, such equipment shall be reclaimed by the department.

(4) If it is deemed by the department to be in the best interest of the state, the department reserves the right to claim any equipment from the county which was purchased with marine safety funds for which reimbursement has been made by paying to the county ⅕ of the fair market value of such equipment. For those years when a proration was applicable to equipment purchases, such proration shall be taken into consideration.

History: 1954 ACS 55, p. 11, Eff. Aug. 14, 1968; 1954 ACS 95, p. 29, Eff. May 20, 1978.

PART 4. NUMBERING OF MOTORBOATS

R 281.1051 Rescinded.

History: 1954 ACS 69, p. 35, Eff. Jan. 1, 1972; rescinded 1954 ACS 83, p. 13, Eff. Apr. 22, 1975.

STATE UNIFORM WATERWAY MARKING SYSTEM

(By authority conferred on the commission of natural resources by section 142 of Act No. 303 of the Public Acts of 1967, being §281.1142 of the Michigan Compiled Laws)

R 281.1101 Definitions.

Rule 1. (1) "Act" means Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws. Terms defined in the act have the same meanings when used in these rules.

(2) "Buoy" means a floating device, including, but not limited to, can, nun, mooring and spar, which by means of certain specifications shall be used to warn vessel operators of natural or artificial obstructions or hazards; to indicate safe channels and to furnish information and control vessel operation.

(3) "Cardinal system" means an aid to navigation based on the cardinal points of the compass, north, east, south, and west.

(4) "Lateral system" means aids to navigation based on the use of red and black solid colored buoys.

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(5) "Occulting" means a light totally eclipsed at regular intervals, the duration of light always greater than the duration of darkness.

(6) "Quick flashing" means a light flashing not less than 60 flashes per minute.

(7) "Regulatory marker" means a buoy or daymark that indicates to a vessel operator the existence of dangerous areas, restricted or controlled areas and provides information and directions; regulatory marker does not include buoys used to mark fish nets and devices.

(8) "Slow flashing" means a light flashing not more than 30 flashes per minute.

(9) "Uniform waterway marker system" means the system of private aids to navigation, including regulatory markers, which may be placed in the waters of the state.

History: 1954 ACS 83, p. 13, Eff. Apr. 22, 1975.

R 281.1102 Applicability.

Rule 2. These rules apply to any person placing regulatory markers or other aids to navigation on any waters within the territorial limits of this state including those waters of the Great Lakes which are under the jurisdiction of this state.

History: 1954 ACS 83, p. 14, Eff. Apr. 22, 1975.

R 281.1103 Revocable marker permits.

Rule 3. (1) A person shall not place buoys, markers or aids to navigation, except mooring buoys and buoys for marking fish nets or fishing devices, in any waters of the state unless a permit granting authority to do so has been issued by the department or the United States coast guard.

(2) A person desiring to place buoys, markers or aids to navigation, except mooring buoys and buoys for marking fish nets or fishing devices, in any waters of the state shall comply with the following:

(a) File an application for a revocable marker permit with the department on forms furnished by the department.

(b) Place the buoys, markers or aids to navigation in accordance with the location, specifications, terms and conditions specified in the permit.

(c) Maintain the buoys, markers or aids to navigation in a good, serviceable and legible condition.

History: 1954 ACS 83, p. 14, Eff. Apr. 22, 1975.

R 281.1104 General.

Rule 4. (1) The state uniform waterway marking system has been developed to provide means to convey to the small vessel operator, in particular, adequate guidance to indicate safe boating channels by indicating the presence of either natural or artificial obstructions or hazards, marking restricted or controlled areas, and providing directions. The uniform waterway marking system is suited for use in all water areas and designed to satisfy the needs of all types of small vessels. It supplements and is generally compatible with the United States coast guard lateral system aids to navigation.

(2) The uniform waterway marking system consists of 2 categories of aids to navigation which are:

(a) A system of regulatory markers to indicate to a vessel operator the existence of dangerous areas as well as those which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions.

(b) A system of aids to navigation to supplement the federal lateral system of buoyage.

History: 1954 ACS 83, p. 14, Eff. Apr. 22, 1975.

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R 281.1105 Markers; size, shape, material, and construction.

Rule 5. (1) The size, shape, material and construction of all markers, both fixed and floating, shall be such as to be observable under normal conditions of visibility at a distance whereby the significance of the marker or aid will be recognizable before the observer proceeds into danger.

(2) All buoys, except mooring buoys and fish net or other fishing device buoys, shall be not less than 6 inches in diameter and shall have an exposure of not less than 36 inches extending above the water line of the buoy.

(3) Mooring buoys shall be not less than 12 inches in diameter and shall have an exposure of not less than 18 inches extending above the water line of the buoy.

(4) Buoys of dimensions other than specified by these rules may be authorized by the director or his authorized representative to meet unusual conditions.

(5) All buoys shall be ballasted so that they will float upright without assistance from the anchor or anchor line.

History: 1954 ACS 83, p. 14, Eff. Apr. 22, 1975.

R 281.1106 Numbers, letters, or words on markers.

Rule 6. (1) Numbers, letters or words on an aid to navigation or regulatory marker shall be placed in a manner as to be clearly visible to an approaching or passing vessel. They shall be block style, well proportioned and as large as the available space permits. Numbers and letters on red or black backgrounds shall be white; numbers and letters on white backgrounds shall be black.

(2) Odd numbers shall be used to identify solid colored black buoys or black topped buoys; even numbers shall be used to identify solid colored red buoys or red topped buoys. All numbers shall increase in an upstream direction or toward the head of navigation. The use of numbers to identify buoys is discretionary unless required as specified in the permit.

(3) Letters only may be used to identify regulatory and red vertically striped obstruction markers. When used, the letters shall follow alphabetical sequence in an upstream direction or toward the head of navigation. The letters I and O shall be omitted to preclude confusion with numbers. The use of letters to identify regulatory and obstruction markers is discretionary unless required as specified in the permit.

History: 1954 ACS 83, p. 15, Eff. Apr. 22, 1975.

R 281.1107 Reflectors or retroreflective materials.

Rule 7. (1) The use of reflectors or retroreflective materials is discretionary unless required as specified in the permit.

(2) When used on buoys having lateral significance, red reflectors or retroreflective materials shall be used on solid colored red buoys; green reflectors or retroreflective materials shall be used on solid colored black buoys; white reflectors or retroreflective materials only shall be used for all other buoys including regulatory markers, except that orange reflectors or retroreflective materials may be used on the orange portions of regulatory markers.

History: 1954 ACS 83, p. 15, Eff. Apr. 22, 1975.

R 281.1108 Navigation lights; types; colors.

Rule 8. (1) The use of navigational lights is discretionary unless required as specified in the permit.

(2) When used, lights on solid colored buoys shall be regularly flashing, regularly occulting or equal interval lights. For ordinary purposes, the frequency

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of flashes may be not more than 30 flashes per minute. When it is desired that lights have a distinct cautionary significance, as at sharp turns or sudden constrictions in the channel or to mark wrecks or other artificial or natural obstructions, the frequency of flashes may be not less than 60 flashes per minute.

(3) When a light is used on a cardinal system buoy or a vertically striped white and red buoy, it shall always be quick flashing.

(4) The colors of the lights shall be the same as for reflectors; a red light only on a solid colored red buoy; a green light only on solid colored black buoy; a white light only for all other buoys including regulatory markers.

History: 1954 ACS 83, p. 15, Eff. Apr. 22, 1975.

R 281.1109 Ownership identification.

Rule 9. The use and placement of ownership identification is discretionary if ownership identification is worded and placed in a manner which avoids detracting from the meaning intended to be conveyed by a navigational aid or regulatory marker.

History: 1954 ACS 83, p. 15, Eff. Apr. 22, 1975.

R 281.1110 Regulatory markers.

Rule 10. (1) Each regulatory marker shall be colored white with international orange geometric shapes.

(2) When a buoy is used as a regulatory marker, it shall be white with horizontal bands of international orange completely around the buoy circumference. One band shall be at the top of the buoy body, with a second band placed just above the water line of the buoy so that both international orange bands are clearly visible to approaching vessels. The area of buoy body visible between the 2 bands shall be white.

(3) Geometric shapes shall be placed on the white portion of the buoy body and shall be colored international orange. The authorized geometric shapes and meanings associated with them are as follows:

(a) A vertical open faced diamond shape to mean danger.

(b) A vertical open faced diamond shape having a cross centered in the diamond to mean that a vessel is excluded from the marked area.

(c) A circular shape to mean that a vessel operated in the marked area is subject to certain operating restrictions.

(d) A square or rectangular shape with directions or information lettered on the inside.

(4) Where a regulatory marker consists of a square or rectangular shaped sign displayed from the shore or a structure, the sign shall be white, with an international orange border. When a diamond or circular geometric shape associated with meaning of the marker is included, it shall be centered on the signboard.

History: 1954 ACS 83, p. 15, Eff. Apr. 22, 1975.

R 281.1111 Aids to navigation.

Rule 11. (1) On a well defined channel including a river or other relatively narrow natural or improved waterway, an aid to navigation shall be a solid colored buoy. A buoy which marks the left side of the channel looking upstream or toward the head of navigation shall be colored all black. A buoy which marks the right side of the channel looking upstream or toward the head of navigation shall be colored all red. On a well defined channel, solid colored buoys shall be established in pairs, 1 on each side of the navigable channel which they mark, and

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opposite each other to inform the user that the channel lies between the buoys and that he should pass between the buoys.

(2) On an irregularly defined channel, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel if they are spaced at sufficiently close intervals to inform the user that the channel lies between the buoys and that he should pass between the buoys.

(3) Where there is no well defined channel or when a body of water is obstructed by objects whose nature or location is such that the obstruction can be approached by a vessel from more than 1 direction, supplemental aids to navigation having cardinal meaning (i.e., pertaining to the cardinal points of the compass, north, east, south, and west) shall be used. The use of aids to navigation having cardinal meaning is limited to those waters of the state which are not navigable waters of the United States.

(4) Aids to navigation conforming to the cardinal system shall consist of 3 distinctly colored buoys.

(a) A white buoy with a red top shall be used to indicate to a vessel operator that he must pass to the south or west of the buoy.

(b) A white buoy with a black top shall be used to indicate to a vessel operator that he must pass to the north or east of the buoy.

(c) A buoy showing alternate red and white stripes shall be used to indicate to a vessel operator that an obstruction to navigation extends from the nearest shore to the buoy and that he must not pass between the buoy and shore. The number of white and red stripes is discretionary, if the white stripes are twice the width of the red stripes.

History: 1954 ACS 83, p. 16, Eff. Apr. 22, 1975.

R 281.1112 Mooring buoys.

Rule 12. Mooring buoys may be placed in waters of the state without a permit having been issued by the department, however, they shall:

(a) Be colored white and shall have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the water line.

(b) If required to be lighted, display a slow flashing white light. When its location in a waterway is such that it constitutes an obstruction to a vessel operated during hours of darkness, it shall display a quick flashing white light.

(c) Bear ownership identification if desired and if the manner and placement of the identification does not detract from the meaning intended to be conveyed by the color scheme or identification letter when assigned.

History: 1954 ACS 83, p. 16, Eff. Apr. 22, 1975.

R 281.1113 Buoys marking fish nets or other fishing devices.

Rule 13. (1) Buoys marking fish nets or other fishing devices may be placed in waters of the state without a permit having been issued by the department.

(2) Buoys marking gill nets or impoundment and trap nets, hook lines, or other similar type fishing devices shall meet all of the following requirements:

(a) Be a spar buoy with a staff not less than 1 inch in diameter.

(b) Have an exposure of not less than 5½ feet above the water surface.

(c) Have a black flag not less than 10 inches by 12 inches affixed to the top of the buoy.

(d) Have affixed a license number or other identification required by section 17 of Act No. 84 of the Public Acts of 1929, as amended, being §308.17 of the

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Michigan Compiled Laws, or Act No. 165 of the Public Acts of 1929, as amended, being §301.1 et seq. of the Michigan Compiled Laws.

(e) Be maintained in good and serviceable condition.

(f) Float in an upright position.

(3) The affixing of a metal radar reflective device to the top of a gill net buoy is optional.

(4) A buoy, as described in subrule (2), with metallic plates or cylinders not less than 6 inches in height affixed near the top and capable of radar detection from an arc of 360 degrees, shall be placed at the lifting buoy of pound, trap, or other impoundment nets.

History: 1954 ACS 83, p. 16, Eff. Apr. 22, 1975; 1954 ACS 86, p. 25, Eff. Feb. 26, 1976.

R 281.1114 Nonconforming markers.

Rule 14. Markers or buoys established in waters of the state in accordance with terms of a permit issued by the department prior to the effective date of these rules may be continued in use as long as they are in good, serviceable and legible condition. At such time as the markers or buoys are no longer in good, serviceable and legible condition or are replaced for other reasons, they shall be replaced with buoys conforming to these rules.

History: 1954 ACS 83, p. 17, Eff. Apr. 22, 1975.

NUMBERING OF VESSELS AND MOTORBOATS

(By authority conferred on the commission of natural resources by sections 31, 33 and 36 of Act No. 303 of the Public Acts of 1967, as amended, being §§281.1031, 281.1033, and 281.1036 of the Michigan Compiled Laws)

R 281.1201 Definitions.

Rule 1. "Act" means Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws. Terms defined in the act have the same meanings when used in these rules.

History: 1954 ACS 83, p. 17, Eff. Apr. 22, 1975.

R 281.1202 Applicability.

Rule 2. These rules apply to all motorboats and all other vessels 12 feet in length or over which are required to be numbered or to display a decal indicating payment of fees under the act and which are operated on any waters within the territorial limits of this state, including those waters of the Great Lakes which are under the jurisdiction of this state.

History: 1954 ACS 83, p. 17, Eff. Apr. 22, 1975.

R 281.1203 Form of number.

Rule 3. (1) Each number required by the act shall consist of capital letters MC denoting the state of Michigan followed by 4 numerals followed by 2 capital letters (example: MC 0000 AA).

(2) A number suffix shall not include the letters I, O, or Q which may be mistaken for numerals.

History: 1954 ACS 83, p. 17, Eff. Apr. 22, 1975.

R 281.1204 Numbers; display; size; color.

Rule 4. (1) Each number required by sections 31 and 33 of the act shall meet all of the following requirements:

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(a) Be painted on or permanently attached to each side of the forward half of the vessel or motorboat except as allowed by subrule (2) or required by subrule (3).

(b) Be in plain vertical block characters of not less than 3 inches in height.

(c) Contrast with the color of the background and be distinctly visible and legible.

(d) Have spaces or hyphens that are equal to the width of the letter "M" between the letter and number groupings (example: MC 0000 AA or MC—0000—AA).

(e) Read from left to right.

(f) Be as high above the water line as practical.

(2) When a vessel or motorboat is used by a manufacturer or dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel or motorboat.

(3) On vessels or motorboats so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel or motorboat so that the number is visible from each side of the vessel or motorboat.

History: 1954 ACS 83, p. 17, Eff. Apr. 22, 1975.

R 281.1205 Other numbers prohibited.

Rule 5. A person may not use a vessel or motorboat to which these rules apply that has any number that is not issued by the secretary of state for that vessel or motorboat on its forward half.

History: 1954 ACS 83, p. 18, Eff. Apr. 22, 1975.

R 281.1206 Documented vessels; decals; display.

Rule 6. (1) Each decal required by sections 31, 32, and 33 of the act to indicate payment of fees required of vessels documented by the United States coast guard or a federal agency successor thereto as provided by section 33 of the act shall be:

(a) Identical to the validation decal prescribed in R 281.1208.

(b) Be permanently affixed to each side of the forward half of the vessel.

(c) Be as high above the water line as practical.

(2) When a decal is lost, destroyed, or defaced, the owner of the documented vessel shall apply to the secretary of state for a duplicate decal.

History: 1954 ACS 83, p. 18, Eff. Apr. 22, 1975.

R 281.1207 Removal of number.

Rule 7. The person whose name appears on a certificate of number as the owner of a motorboat or vessel shall remove the number and validation decal from the vessel when 1 of the following occurs:

(a) The motorboat or vessel is documented by the United States coast guard or federal agency successor thereto; however, the decal prescribed in R 281.1206 shall then be displayed.

(b) The certificate of number is invalid under the act.

(c) The motorboat or vessel is no longer principally used in this state.

History: 1954 ACS 83, p. 18, Eff. Apr. 22, 1975.

R 281.1208 Validation decals; display; size; color.

Rule 8. (1) The validation decal required by section 33 of the act shall meet the following requirements:

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(a) Be permanently attached to each side of the forward half of the motorboat or vessel.

(b) Be approximately 3 inches square.

(c) Indicate the year in which the decal expires by the colors, blue, international orange, green, and red, in rotation beginning with blue for decals that expire in 1973 (example: decal expires December 31, 1973—blue, expires December 31, 1974—international orange, expires December 31, 1975—green, expires December 31, 1976—red, expires December 31, 1977—blue, etc.).

(d) Be displayed on each side of the motorboat or vessel 3 inches beyond the last letter of the assigned number and on the same strake or level as the number.

(2) When a validation decal is lost, destroyed, or defaced, the owner of the motorboat or vessel shall apply to the secretary of state for a duplicate.

History: 1954 ACS 83, p. 18, Eff. Apr. 22, 1975.

R 281.1209 Rescission.

Rule 9. Rule 51 of the general rules of the department relating to numbering of motorboats, being R 281.1051 of the Michigan Administrative Code and appearing on page 5427 of the 1970-71 Annual Supplement to the Code, is rescinded.

History: 1954 ACS 83, p. 18, Eff. Apr. 22, 1975.

MARINE COLLISIONS, ACCIDENTS, OR OTHER CASUALTIES

(By authority conferred on the commission of natural resources by section 58 of Act 303 of the Public Acts of 1967, as amended, being §281.1058 of the Michigan Compiled Laws)

R 281.1221 Definitions.

Rule 1. "Act" means Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws. Terms defined in the act have the same meanings when used in these rules.

History: 1954 ACS 83, p. 18, Eff. Apr. 22, 1975.

R 281.1222 Applicability.

Rule 2. (1) These rules apply to each vessel used on any waters within the territorial limits of this state, including those waters of the Great Lakes which are under the jurisdiction of this state, that is used by its operator for recreational purposes; or is required to be numbered under the act.

(2) These rules do not apply to a vessel required to have a certificate of inspection under chapter I of title 46, code of federal regulations.

History: 1954 ACS 83, p. 19, Eff. Apr. 22, 1975.

R 281.1223 Immediate notification of death or disappearance.

Rule 3. (1) When, as a result of an occurrence that involves a vessel or its equipment a person dies or disappears from a vessel, the operator shall notify without delay, by the quickest means available, the sheriff of the county in which the collision, accident or other casualty occurred or the nearest peace officer or state police post of the following:

(a) The date, time and exact location of the occurrence.

(b) The name of each person who died or disappeared.

(c) The number and name of the vessel.

(d) The names and addresses of the owner and operator.

(2) When the operator of a vessel cannot give the notice required by subrule

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(1), each person on board the vessel shall give the required notice or determine that the notice has been given.

History: 1954 ACS 83, p. 19, Eff. Apr. 22, 1975.

R 281.1224 Report of collision, accident, or other casualty.

Rule 4. (1) The report required by section 53 of the act shall be made by the operator of a vessel when as a result of an occurrence that involves the vessel or its equipment any of the following occur:

(a) A person dies.

(b) A person loses consciousness or receives medical treatment or is disabled for more than 24 hours.

(c) Damage to the vessel and other property damage totals more than $100.00.

(d) A person disappears from the vessel under circumstances that indicate death or injury.

(2) A report required by section 53 of the act and this rule shall be made as follows:

(a) Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence.

(b) Within 48 hours of the occurrence if a person loses consciousness or receives medical treatment or is disabled for more than 24 hours or disappears from a vessel.

(c) Within 5 days of the occurrence or death if an earlier report is not required by this rule.

(3) When the operator of a vessel cannot make the report required by section 53 of the act and this rule, the owner shall make the report.

History: 1954 ACS 83, p. 19, Eff. Apr. 22, 1975.

R 281.1225 Collision, accident, or other casualty report.

Rule 5. Each report required by section 55 of the act shall be in writing dated upon completion and signed by the peace officer who prepared it and shall contain, if available, at least the following information about the collision, accident or other casualty:

(a) The numbers and names of each vessel involved.

(b) The name and address of each owner of each vessel involved.

(c) The name of the nearest city or town, the county, the state and the body of water.

(d) The time and date the collision, accident, or other casualty occurred.

(e) The location on the water.

(f) The visibility, weather, and water conditions.

(g) The estimated air and water temperatures.

(h) The name, address, age or date of birth, telephone number, vessel operating experience, and boating safety training of the operator involved in the occurrence.

(i) The number of persons on board or towed on water skis, surfboard, or similar contrivance by each vessel.

(j) The name, address, and date of birth of each person injured or killed, whether or not artificial respiration was used, if a physician was in attendance and where the person was treated.

(k) The cause of each death.

(l) Weather forecasts available to, and weather reports used by, the operators of the vessels involved before and during the use of the vessels.

(m) The name and address of each owner of property involved.

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(n) The availability and use of personal flotation devices.

(o) The type and amount of each fire extinguisher used.

(p) The nature and extent of each injury.

(q) A description of all property damage and vessel damage with an estimate of the cost of all repairs.

(r) A description of each equipment failure that caused or contributed to the cause of the collision, accident, or other casualty.

(s) A description of the occurrence.

(t) The names of any persons arrested and the charge.

(u) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, explosion, or other).

(v) The opinion of the peace officer making the report as to the cause of the occurrence.

(w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other) and year built (model year), of the vessels involved.

(x) The name, address, and telephone number of each witness.

(y) The manufacturer's hull identification number, if any, of each vessel involved.

(z) The name, address, department, and telephone number of the peace officer submitting the report.

History: 1954 ACS 83, p. 19, Eff. Apr. 22, 1975.

R 281.1226 Where to report.

Rule 6. (1) If the collision, accident, or other casualty occurred on waters of this state the report shall be made as required by sections 53 and 55 of the act.

(2) If the collision, accident, or other casualty occurred outside this state the report shall be made to the authority having jurisdiction over the waters where the collision, accident, or other casualty occurred.

History: 1954 ACS 83, p. 20, Eff. Apr. 22, 1975.

ASSOCIATED EQUIPMENT ON VESSELS

(By authority conferred on the commission of natural resources by section 18 of Act No. 303 of the Public Acts of 1967, as amended, being §281.1018 of the Michigan Compiled Laws)

R 281.1231 Definitions.

Rule 1. (1) "Act" means Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws. Terms defined in the act have the same meanings when used in these rules.

(2) "Open boat" means a motorboat with all engine and fuel tank compartments and other spaces to which explosives or flammable gases and vapors from these compartments may flow, open to the atmosphere and so arranged as to prevent the entrapment of gases and vapors within the vessel.

(3) "Point" means 11¼ degrees of the compass.

History: 1954 ACS 83, p. 20, Eff. Apr. 22, 1975.

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R 281.1232 Applicability.

Rule 2. These rules apply to vessels and associated equipment used, to be used, or carried in vessels used on any waters within the territorial limits of this state including those waters of the Great Lakes which are under the jurisdiction of this state, except:

(a) Foreign vessels temporarily using waters subject to state jurisdiction.

(b) Military or public vessels of the United States, except recreational-type public vessels.

(c) A vessel whose owner is a state or political subdivision thereof, other than this state and its political subdivisions, which is used principally for governmental purposes, and which is clearly identifiable as such.

(d) A ship's lifeboat.

History: 1954 ACS 83, p. 20, Eff. Apr. 22, 1975.

R 281.1233 Navigation lights; intensity standards; placement; screening.

Rule 3. (1) Navigation lights shall be of sufficient intensity so that the candlepower outside the lens is not less than that amount corresponding to the required distance of visibility as indicated in table 1.

TABLE 1

Distance of Visibility in Nautical Miles	Candlepower
1	1.0
2	5.5
3	17.6
5	100.0

(2) As an aid in complying with this rule, the standard double contact bayonet candelabra base lamps listed in table 2 are recommended for motorboats having 6 to 32 volt electrical systems.

TABLE 2

Distance of Visibility in Nautical Miles	Color	Lamp Number for Certain Voltage Systems					
		With Fresnel Lens			Without Fresnel Lens		
		6	12	32	6	12	32
1	Red	82	90	1,226	1,130	1,142	1,230
1	Green	88	94	1,228	—	—	—
2	White	64	68	1,224	82	90	1,226
3	White	82	90	1,226	1,130	1,142	1,230

(3) As an aid in complying with this rule, the incandescent lamps listed in table 3 are recommended for vessels having 115 volt electrical systems.

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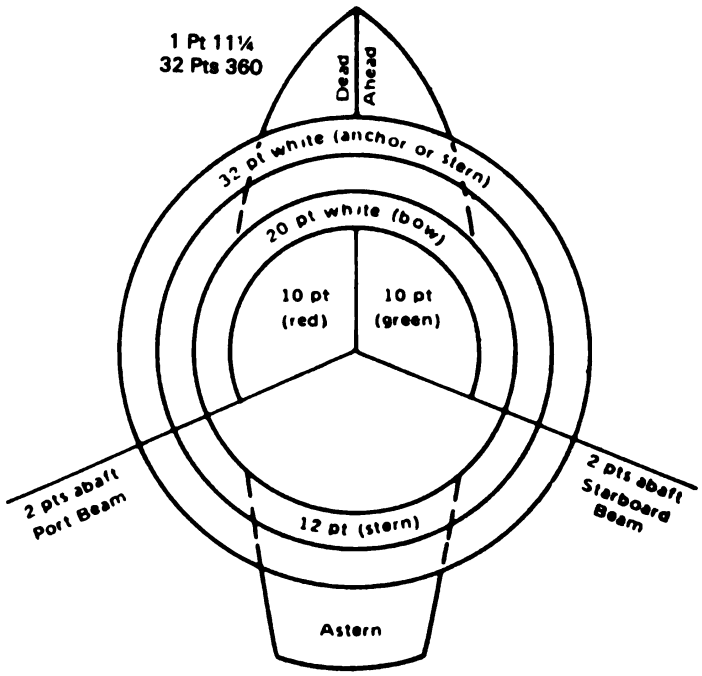
TABLE 3

Distance of Visibility in Nautical Miles	Color	Wattage	
		With Fresnel Lens	Without Fresnel Lens
1	Red	—	25
1	Green	25	50
2	White	—	15
2	Amber	—	25
2	Red	40	100
2	Green	75	200
3	White	—	25
3	Amber	25	75
5	White	40	100

(4) The light intensity standards of this rule shall apply to new navigation lights installed and replacements of existing lights made on and after January 1, 1973.

(5) Navigation lights required by these rules shall be placed high enough that their light will not be obstructed by persons or parts of the boat or its equipment and shall be screened as indicated in figure 1.

FIGURE 1



History: 1954 ACS 83, p. 21, Eff. Apr. 22, 1975.

R 281.1234 Personal flotation devices.

Rule 4. (1) Personal flotation devices required by these rules to be carried aboard vessels shall be of the following types:

(a) Type I, an approved device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position, and to have more than 20 pounds of buoyancy.

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(b) Type II, an approved device designed to turn an unconscious person in the water from a face down position to a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.

(c) Type III, an approved device designed to keep a conscious person in a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.

(d) Type IV, an approved device designed to be thrown to a person in the water and not worn. It is designed to have at least 16.5 pounds of buoyancy.

(2) Personal flotation devices required by these rules to be carried aboard vessels shall be:

(a) Approved by the United States coast guard.

(b) Legibly marked with the approval number issued by the United States coast guard.

(c) Of an appropriate size for the person for whom it is intended.

(d) Readily accessible and immediately available.

(e) In good and serviceable condition.

History: 1954 ACS 83, p. 22, Eff. Apr. 22, 1975.

R 281.1235 Fire extinguishing equipment.

Rule 5. (1) All hand portable fire extinguishers, semiportable fire extinguishing systems and fixed fire extinguishing systems required by these rules shall be of a type approved by the United States coast guard.

(2) Hand portable fire extinguishers and semiportable fire extinguishing systems are classified by a combination letter and number symbol. The letter indicating the type of fire which the unit could be expected to extinguish, and the number indicating the relative size of the unit.

(3) For the purpose of these rules, all required hand portable fire extinguishers and semiportable fire extinguishing systems are of the "B" type; that is, suitable for extinguishing fires involving flammable liquids, greases, and so forth.

(4) The number designations for size start with "I" for the smallest to "III" for the largest. Sizes I and II are considered hand portable fire extinguishers and size III is considered a semiportable fire extinguishing system which shall be fitted with a suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical hand portable fire extinguishers and semiportable fire extinguishing systems are as indicated in table 4.

TABLE 4

Classification		Foam Gallons	Carbon Dioxide, Pounds	Dry Chemical, Pounds
Type	Size			
B	I	1¼	4	2
B	II	2½	15	10
B	III	12	35	20

(5) All hand portable fire extinguishers and semiportable fire extinguishing systems shall have permanently attached thereto a metallic nameplate giving the name of the item, the rated capacity in gallons, quarts, or pounds, the name and address of the person or firm for whom approved, and the identifying mark of the actual manufacturer.

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(6) Vaporizing liquid type fire extinguishers containing carbon tetrachloride or chlorobromomethane or other toxic liquids are not acceptable as equipment required by these rules.

(7) Hand portable or semiportable extinguishers which are required on their nameplates to be protected from freezing shall not be located where freezing temperatures may be expected.

(8) A dry chemical, stored pressure, fire extinguisher not fitted with pressure gauge or indicating device, manufactured prior to January 1, 1965, may be carried on motorboats so long as it is maintained in good and serviceable condition. The following maintenance and inspections are required for such an extinguisher:

(a) When the date on the inspection record tag on the extinguisher shows that 6 months have elapsed since the last weight check ashore, the extinguisher is no longer accepted as meeting required maintenance conditions until reweighed ashore and found to be in a serviceable condition and within required weight conditions.

(b) If the weight of the container is ¼ ounce less than that stamped on the container, it shall be serviced.

(c) If the outer seals, which indicate tampering or use when broken, are not intact, the officer shall inspect the extinguisher to see that the frangible disc in the neck of the container is intact; and if the disc is not intact, the container shall be serviced.

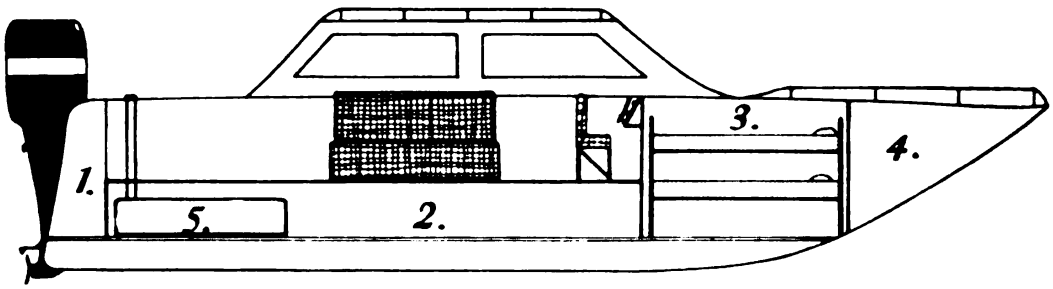
(d) If there is evidence of damage, use, or leakage, such as dry chemical powder observed in the nozzle or elsewhere on the extinguisher, the container shall be replaced and the extinguisher properly serviced or the extinguisher replaced with another approved extinguisher.

(9) A dry chemical, stored pressure, fire extinguisher without pressure gauge or indicating device manufactured after January 1, 1965, shall not be carried on motorboats as required equipment.

(10) When a fixed fire extinguishing system is installed, it shall be of a carbon dioxide type approved and installed as required by the United States coast guard.

(11) The intent of these rules is illustrated in figure 2, where fire extinguishers are required if any of the specified conditions exist, and in figure 3, where specified conditions do not, in themselves, require that fire extinguishers be carried.

FIGURE 2



Fire extinguishers are required if any of the following conditions exist:

1. Closed compartment under thwarts and seats where portable fuel tanks may be stored.

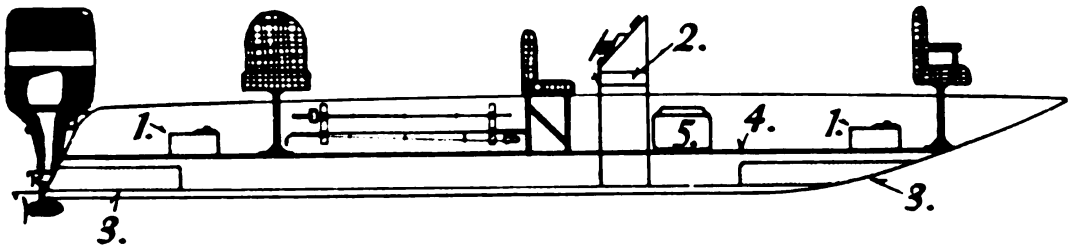
2. Double bottoms not sealed to the hull or which are not completely filled with flotation material.

3. Closed living spaces.

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4. Closed compartments in which combustible or flammable materials are stored.
5. Permanently installed fuel tanks.

FIGURE 3



The following conditions do not, in themselves, require that fire extinguishers be carried:

1. Bait wells.
2. Glove compartments.
3. Buoyant flotation material.
4. Open slatted flooring.
5. Ice chests.

History: 1954 ACS 83, p. 22, Eff. Apr. 22, 1975.

R 281.1236 Backfire flame control.

Rule 6. (1) Every gasoline engine installed in a motorboat after April 25, 1940, except outboard motors, shall be equipped with an acceptable means of backfire flame control.

(2) Installations made before November 19, 1952, need not meet the detailed requirements of this rule and may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions in this rule.

(3) Installations consisting of backfire flame arresters bearing United States coast guard approval no. 162.015 may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions of this rule.

(4) Installations consisting of engine air and fuel induction systems and given United States coast guard approval no. 162.015 may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions of this rule.

(5) The following are acceptable means of backfire flame control for gasoline engines:

(a) A backfire flame arrester constructed in accordance with specifications of, and approved by, the United States coast guard. The flame arrester shall be suitably secured to the air intake with flame-tight connections.

(b) An engine air and fuel induction system which provides adequate protection from propagation of backfire flame to the atmosphere equivalent to that provided by an approved backfire flame arrester. A gasoline engine utilizing an air and fuel induction system, and operated without an approved backfire flame arrester shall have the installation tested and labeled in accordance with the specifications of, and approved by, the United States coast guard.

(c) Any attachment to the carburetor or location of the engine air induction system by means of which flames caused by engine backfire will be dispersed to

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the atmosphere outside the vessel in such a manner that the flames will not endanger the vessel, persons on board or nearby vessels and structures. All attachments shall be of metallic construction with flame-tight connections and firmly secured to withstand vibration, shock, and engine backfire. The installations do not require formal approval and labeling, but will be accepted by state and local law enforcement officers on the basis of compliance with this rule.

(d) Where manufacturers wish to produce vessels having an integrated engine-vessel design, a pre-market approval of an engine air induction system is available. An installation shall be tested and labeled in accordance with the specifications of, and approval by, the United States coast guard.

History: 1954 ACS 83, p. 24, Eff. Apr. 22, 1975.

R 281.1237 Ventilation.

Rule 7. (1) All motorboats, except open boats, the construction or decking over of which is commenced after April 25, 1940, and which use fuel having a flash point of 110 degrees Fahrenheit or less, shall have at least 2 ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment. There shall be at least 1 exhaust duct installed so as to extend from the open atmosphere to the lower portion of the bilge and at least 1 intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor intake. The cowls shall be located and trimmed for maximum effectiveness and in such a manner so as to prevent displaced fumes from being recirculated.

(2) Where alterations are needed for existing motorboats to comply with the requirements in this rule, the alterations shall be accomplished as soon as practicable and shall be completed by June 1, 1975.

History: 1954 ACS 83, p. 25, Eff. Apr. 22, 1975.

R 281.1238 Mufflers; cut outs.

Rule 8. The exhaust of all internal combustion engines used on any waters of this state, shall be muffled effectively by equipment so constructed and used as to muffle the noise of the exhaust of the engine in a reasonable manner. The use of cut outs, bypasses, or similar devices is prohibited, except for vessels competing in a boat race or regatta sanctioned by the department under sections 151 and 152 of the act. A modern device, underwater exhaust system or a system discharging cold water through the exhaust of an inboard engine, each of which is capable of muffling the noise of the exhaust of the engine in a reasonable manner, shall be considered as meeting the requirements of this rule.

History: 1954 ACS 83, p. 25, Eff. Apr. 22, 1975.

R 281.1239 Associated equipment carriage requirements.

Rule 9. Associated equipment required by these rules to be carried aboard vessels are minimum and listed in R 281.1240 to R 281.1252 by type and length of vessel and by type of propulsion. A person shall not operate a vessel on waters of this state unless equipped in accordance with these rules.

History: 1954 ACS 83, p. 25, Eff. Apr. 22, 1975.

OUTBOARD MOTORBOATS

R 281.1240 Less than 16 feet in length.

Rule 10. An outboard motorboat less than 16 feet in length shall be equipped as follows:

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(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(b) One type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(c) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2, it shall be equipped with 1 BI type coast guard approved fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(d) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port, visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(e) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(f) All lights shall be as specified by R 281.1233.

(g) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 25, Eff. Apr. 22, 1975.

R 281.1241 Sixteen feet or over and less than 26 feet in length.

Rule 11. An outboard motorboat 16 feet or over and less than 26 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(b) One type I, II, or III coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(c) One hand, mouth, or power operated whistle, capable of producing a blast of 2 seconds or more in duration, and audible for at least ½ mile.

(d) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2, it shall be equipped with 1 BI type coast guard approved fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(e) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(f) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

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(g) All lights shall be as specified by R 281.1233.

(h) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 26, Eff. Apr. 22, 1975.

R 281.1242 Twenty-six feet or over and less than 40 feet in length.

Rule 12. An outboard motorboat 26 feet or over and less than 40 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(b) One type I, II, or III coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(c) An efficient fog bell which when struck, produces a clear bell-like tone of full round characteristics.

(d) One hand or power operated whistle, capable of producing a blast of 2 seconds or more duration and audible for a distance of at least 1 mile.

(e) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2, it shall be equipped with 2 BI type coast guard approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235. One BII type coast guard approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(h) All lights shall be as specified by R 281.1233.

(i) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 26, Eff. Apr. 22, 1975.

R 281.1243 Forty feet or over and not more than 65 feet in length.

Rule 13. An outboard motorboat 40 feet or over and not more than 65 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(b) One type I, II, or III coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(c) An efficient fog bell which when struck, produces a clear bell-like tone of full round characteristics.

(d) One power operated whistle capable of producing a blast of 2 seconds or more duration, and audible for a distance of at least 1 mile.

(e) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2, it

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shall be equipped with 3 BI type coast guard approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235. One BII type coast guard approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(h) All lights shall be as specified by R 281.1233.

(i) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 27, Eff. Apr. 22, 1975.

INBOARD AND INBOARD-OUTBOARD MOTORBOATS

R 281.1244 Less than 16 feet in length.

Rule 14. An inboard or inboard-outboard motorboat less than 16 feet in length shall be equipped as follows:

(a) One coast guard approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.

(b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(c) One type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other containers.

(d) One BI type coast guard approved hand portable fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(e) If underway between sunset and sunrise, the motorboat shall be equipped with and exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(f) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(g) All lights shall be as specified by R 281.1233.

(h) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 27, Eff. Apr. 22, 1975.

R 281.1245 Sixteen feet or over and less than 26 feet in length.

Rule 15. An inboard or inboard-outboard motorboat 16 feet or over and less than 26 feet in length shall be equipped as follows:

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(a) One coast guard approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.

(b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(c) One type I, II, or III coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(d) One hand, mouth, or power operated whistle, capable of producing a blast of 2 seconds or more duration, and audible for at least ¼ mile.

(e) One BI type coast guard approved hand portable fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(h) All lights shall be as specified by R 281.1233.

(i) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 28, Eff. Apr. 22, 1975.

R 281.1246 Twenty-six feet and over and less than 40 feet in length.

Rule 16. An inboard or inboard-outboard motorboat 26 feet or over and less than 40 feet in length shall be equipped as follows:

(a) One coast guard approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.

(b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(c) An efficient fog bell which when struck, produces a clear, bell-like tone of full round characteristics.

(d) One hand or power operated whistle, capable of producing a blast of 2 seconds or more duration and audible for a distance of at least 1 mile.

(e) One type I, II, or III coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(f) At least 2 BI type coast guard approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235, one BII type coast guard approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(g) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red

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light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(h) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(i) All lights shall be as specified by R 281.1233.

(j) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 28, Eff. Apr. 22, 1975.

R 281.1247 Forty feet and over and not more than 65 feet in length.

Rule 17. An inboard or inboard-outboard motorboat 40 feet or over and not more than 65 feet in length shall be equipped as follows:

(a) One coast guard approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.

(b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(c) An efficient fog bell which when struck, produces a clear bell-like tone of full round characteristics.

(d) One power operated whistle, capable of producing a blast of 2 seconds or more duration and audible a distance of at least 1 mile.

(e) One type I, II, or III coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(f) At least 3 BI type coast guard approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235. One BII type coast guard approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI type fire extinguisher is required.

(g) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(h) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(i) All lights shall be as specified by R 281.1233.

(j) A muffler as specified by R 281.1238 for each motor.

History: 1954 ACS 83, p. 29, Eff. Apr. 22, 1975.

SAILBOATS AND OTHER TYPES OF BOATS

R 281.1248 Sailboat without motor, less than 16 feet in length.

Rule 18. A sailboat without a motor and less than 16 feet in length shall be equipped as follows:

(a) One type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other containers.

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(b) If underway between sunset and sunrise, the sailboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

(c) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the sailboat so as to be visible to a boat approaching from any direction.

History: 1954 ACS 83, p. 29, Eff. Apr. 22, 1975.

R 281.1249 Sailboat without motor, 16 feet or over in length.

Rule 19. A sailboat without a motor and 16 feet or over in length shall be equipped as follows:

(a) One type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(b) If underway between sunset and sunrise, the sailboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

(c) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the sailboat so as to be visible to a boat approaching from any direction.

History: 1954 ACS 83, p. 29, Eff. Apr. 22, 1975.

R 281.1250 Sailboat with motor.

Rule 20. A sailboat with a motor shall be equipped as follows:

(a) Personal flotation devices, backfire flame arresters, ventilation ducts and cowls, fire extinguishers, whistles and bells and mufflers, as required by these rules for motorboats of the same length.

(b) If underway between sunset and sunrise shall be equipped with and exhibit navigation lights as required by these rules for motorboats of the same length, except:

(i) A sailboat 26 feet or over in length under sail alone on the Great Lakes and waters connected thereto between sunset and sunrise shall be equipped with and exhibit a green light to starboard showing 10 points and visible 1 mile, a red light to port showing 10 points and visible 1 mile and a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

(ii) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the sailboat so as to be visible to a boat approaching from any direction. In lieu of these lighting requirements sailboats may display lights as specified by the international rules of the road.

History: 1954 ACS 83, p. 30, Eff. Apr. 22, 1975.

R 281.1251 Rowboats.

Rule 21. (1) A rowboat shall be equipped with personal flotation devices as required by these rules for a motorboat of the same length.

(2) If underway between sunset and sunrise a rowboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

History: 1954 ACS 83, p. 30, Eff. Apr. 22, 1975.

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R 281.1252 Canoes and kayaks.

Rule 22. (1) A canoe or kayak shall be equipped with 1 type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(2) If underway between sunset and sunrise a canoe or kayak shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

History: 1954 ACS 83, p. 30, Eff. Apr. 22, 1975.

VESSELS CARRYING PASSENGERS FOR HIRE

(By authority conferred on the state waterways commission by sections 3 and 12 of Act No. 228 of the Public Acts of 1965, being §§281.803 and 281.812 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 281.2001 Scope.

Rule 1. These rules are promulgated for the purpose of implementing Act No. 228 of the Public Acts of 1965, being §§281.801 to 281.813 of the Michigan Compiled Laws, hereinafter referred to as the act.

History: 1954 ACS 59, p. 12, Eff. Aug. 14, 1969.

R 281.2005 Definitions.

Rule 5. As used in these rules:

(a) The terms defined in the act have the same meaning.

(b) "Marine inspector" means a person employed by the commission for the purpose of examining vessels and vessel operators to assure compliance with state law.

(c) "Navigable waters of the United States" means the bodies of water, including all of the Great Lakes and their connecting channels under the jurisdiction of the United States coast guard marine inspection office for the purposes of vessel operator licensing and the inspection and certification of vessels carrying more than 6 passengers for hire.

(d) "Nonnavigable waters of the United States" means all other bodies of water in this state not under the jurisdiction of the United States coast guard as described in subdivision (c).

History: 1954 ACS 59, p. 12, Eff. Aug. 14, 1969.

PART 2. VESSEL EQUIPMENT

R 281.2021 Hull markings.

Rule 21. (1) A vessel, except one documented under federal law, shall be registered by the Michigan department of state and shall display the registration number awarded on both bows of the vessel in accordance with state law.

(2) A documented vessel shall bear all markings required and affixed in accordance with federal law.

(3) A vessel, where applicable, shall bear boat license plates affixed in accordance with state law.

History: 1954 ACS 59, p. 12, Eff. Aug. 14, 1969.

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R 281.2022 Main engines; suitability and cooling.

Rule 22. (1) Main engines shall be suitable in type and design for propulsion requirements of the hull in which they are installed and capable of operating at constant marine load without exceeding their designed limitations.

(2) The head, block and exhaust manifold shall be water jacketed and cooled by water from a pump which operates when the engine is operating.

History: 1954 ACS 59, p. 13, Eff. Aug. 14, 1969.

R 281.2023 Main engine carburetors.

Rule 23. (1) A main engine carburetor shall be designed to prevent leakage of fuel around shafts or other connections.

(2) A carburetor shall have integral or properly connected drip collectors of adequate capacity which return all drip and overflow to the engine intake manifold.

(3) A carburetor shall be installed in such a manner as to prevent any drip or accumulation of fuel in the drip collector from escaping into the bilges or engine compartment.

(4) An air intake shall be fitted with an approved means of backfire flame control.

History: 1954 ACS 59, p. 13, Eff. Aug. 14, 1969.

R 281.2024 Main engine gages.

Rule 24. (1) A main engine gage to indicate cooling water discharge temperature shall be so located as to be readable by the operator at all helm positions.

(2) A gage to indicate lubrication oil pressure shall be provided for a propulsion engine having a pressure lubricating system. It shall be located so as to be readable by the operator at all helm positions.

(3) A warning light may be used in lieu of a gage if it is of a type that can be tested at any time by the operator.

History: 1954 ACS 59, p. 13, Eff. Aug. 14, 1969.

R 281.2025 Main engine exhaust pipe systems.

Rule 25. (1) A main engine exhaust pipe system shall be:

(a) Gastight to hull interior.

(b) Designed and installed to prevent water, from the sea or the cooling system, returning to the engine.

(c) So accessible that it can be inspected and repaired throughout its length.

(d) Supported so as to prevent undue stresses that may cause fractures.

(2) Where personnel or combustibles may come in contact with hot surfaces, effective protection shall be provided by waterjacketing, lagging, shielding, or suitable guards. Hangers, brackets, and other supporting components shall be of fire-resistant materials and be installed so as to prevent transmission of heat to adjacent combustible materials.

History: 1954 ACS 59, p. 13, Eff. Aug. 14, 1969.

R 281.2026 Ventilation and location of ducts.

Rule 26. (1) A compartment or space, including the lower portion and bilge, in which an engine or fuel tank is located, shall be provided with ventilation capable of preventing, and effective for removing, an accumulation of flammable or explosive vapor.

(2) Where the engine and fuel tank are not in a completely enclosed compartment, at least 1 mechanical exhaust ventilation duct shall be installed in the fore

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part of the vessel, and 1 natural supply duct shall be installed in the after part of the vessel, both ducts having cowls or scoops.

(3) Where the engine and fuel tank are in a completely enclosed compartment, at least 2 supply ducts shall be located at 1 end of the compartment and they shall extend to the lowest part of the compartment or bilge on each side. Similar exhaust ducts shall be led to the mechanical exhaust system from the lowest part of the compartment or bilge on each side of the compartment at the end opposite from that at which the supply ducts are fitted.

(4) The exterior termination of a ventilating duct shall be located to prevent the return of displaced vapors to any enclosed space, and to avoid the pickup of vapors from fuel filling operations.

History: 1954 ACS 59, p. 13, Eff. Aug. 14, 1969.

R 281.2027 Construction of ducts.

Rule 27. (1) A duct shall be of rigid permanent construction of fireproof material and reasonably gastight from end to end. A duct shall lead as directly as possible and be properly fastened and supported. A duct shall be so installed that the ordinary collection of water in the bilge will not trap the duct.

(2) Cross sectional areas of each ventilation duct in a compartment shall be the same, with each cross section having an area of at least 1 square inch per foot of beam.

(3) A supply duct shall be provided with a cowl or scoop having a free area not less than twice the required duct area. When the cowl or scoop is screened, the mouth area shall be increased to compensate for the area of the screen wire. A damper shall not be fitted in a supply duct.

(4) A preferred arrangement uses the after ventilating ducts as inlets and the forward ventilating ducts as outlets, with the cowls of the after or inlet ducts trimmed forward and on a higher plane than the cowls of the forward or outlet ducts which are trimmed aft. The relative difference in elevation between the inlet cowl opening and the outlet cowl opening shall be a minimum of 4 inches.

History: 1954 ACS 59, p. 14, Eff. Aug. 14, 1969.

R 281.2028 Power exhaust blowers for ducts.

Rule 28. (1) The outlet of a ventilating duct shall be fitted with a power operated exhaust blower approved for marine use and installed as high above the bilges as possible. Location of power exhaust blowers just under the deck at the side is recommended. When so located, inspection or repair access shall be provided by easily removable panels or otherwise.

(2) Each helm position shall be placarded with a warning to operate blowers to free compartments of hazardous vapors before starting main or auxiliary engines.

(3) An exhaust blower switch shall be located outside of any space required to be ventilated by these rules, and shall be of the type interlocked with the engine ignition switch so that the blowers are started before the ignition is switched on. However, a blower switch independent from the ignition system will be accepted.

(4) The mechanical exhaust system shall assure the following air changes depending upon the size of the space:

Not over 500 cubic feet in size of space; minutes per air change..... 3
Not over 1,000 cubic feet size of space; minutes per air change..... 4
Not over 1,500 cubic feet of space; minutes per air change..... 5

History: 1954 ACS 59, p. 14, Eff. Aug. 14, 1969.

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R 281.2030 Fuel tanks.

Rule 30. A fuel tank on a vessel, except an outboard motor powered vessel, shall be installed:

(a) To permit examination, testing or removal for cleaning with minimum disturbance to the hull structure.

(b) With adequate support and bracing to prevent movement. The supports and braces shall be insulated from contact with the tank surfaces with a nonabrasive and nonabsorbent material.

(c) By electrical bonding to the common ground.

(d) With openings for fill and vent pipes, and for fuel level gages where used, on the topmost surfaces of the tank. The tank shall have no openings in the bottom, sides, or ends, except that an opening fitted with a threaded plug or cap may be used for cleaning the tank.

History: 1954 ACS 59, p. 14, Eff. Aug. 14, 1969.

R 281.2031 Fuel tank filling and sounding pipes.

Rule 31. Fuel tank filling and sounding pipes shall be installed as follows:

(a) A filling pipe shall be not less than 1½ inches nominal pipe size.

(b) A filling or sounding pipe shall be so arranged that overflow of liquid or vapor cannot escape to the inside of the vessel, but will discharge overboard.

(c) A sounding pipe may be omitted where sounding can be accomplished through the fill pipe or where marine type fuel gages are installed.

(d) A sounding pipe when used shall be at least as high as the filling pipe and shall be kept closed at all times except during sounding.

History: 1954 ACS 59, p. 14, Eff. Aug. 14, 1969.

R 281.2032 Fuel tank vent pipes.

Rule 32. Fuel tank vent pipes shall be installed as follows:

(a) A fuel tank shall be fitted with a vent pipe which shall be connected to the tank at its highest point.

(b) The net cross sectional area of the vent pipe shall be not less than that of ¾-inch outside diameter tubing except that, where provision is made to fill the tank under pressure, the cross sectional area of the vent pipe shall be not less than that of the fill pipe.

(c) The discharge end of a vent pipe shall terminate on the hull exterior as high above the waterline as practicable and remote from any hull openings, or shall terminate as high above the weather deck as practicable and as far from any openings into living quarters or other below deck spaces as practicable.

(d) A vent pipe terminating on the hull exterior shall be installed or equipped to prevent accidental contamination of the fuel by water under normal operating conditions.

(e) The discharge end of a vent pipe shall be fitted with a removable flame screen or flame arrester. The flame screen shall consist of a single screen of corrosion resistant wire of at least 30 x 30 mesh.

History: 1954 ACS 59, p. 15, Eff. Aug. 14, 1969.

R 281.2033 Fuel system maintenance.

Rule 33. The entire fuel system, tanks, piping, tank vent line, and accessories shall be maintained in the following manner:

(a) The operator shall regularly inspect them for leaks or evidence of corrosion.

(b) Connections shall be tight at all times.

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(c) Fuel carried on board outside of a fixed fuel system shall be in an approved container or in a portable tank as provided by manufacturers of outboard engines and shall be safely stowed outside of engine or living compartments.

History: 1954 ACS 59, p. 15, Eff. Aug. 14, 1969.

R 281.2034 Fueling operations.

Rule 34. (1) During fueling operations, smoking shall be forbidden on board or anywhere nearby.

(2) Passengers shall not be allowed on board a vessel while it is taking on fuel.

(3) Before opening a fuel tank the following precautions shall be observed:

(a) Engines, motors, and fans shall be shut down.

(b) Open flames shall be extinguished.

(c) Ports, windows, doors, and hatches shall be closed.

(d) The quantity of fuel to be taken aboard shall be determined.

(4) The fuel delivery nozzle shall be put in contact with the filling pipe before the flow of fuel is commenced and this contact shall be continuously maintained until the flow has stopped. A serious hazard from static discharge exists unless this rule is observed.

(5) After fuel flow has stopped, the fill cap shall be tightly secured, any spillage shall be wiped up completely, and the entire vessel shall be opened and vented before starting any engines or operating any appliances.

(6) Fueling shall not be undertaken at night except under well lighted conditions.

History: 1954 ACS 59, p. 15, Eff. Aug. 14, 1969.

R 281.2035 Cooking and heating appliances.

Rule 35. (1) Galley stoves and heating appliances shall be manufactured, approved and labeled for marine use.

(2) A durable and permanently legible instruction sign covering the safe operation and maintenance shall be provided by the manufacturer and installed on or adjacent to the consuming appliance, where it may be readily observed.

(3) Galley stoves and heating appliances shall be installed in adequately ventilated areas.

(4) Galley stoves and heating appliances shall be securely fastened when in use and when stored.

(5) A burner system that may affect safety by reason of motion of the vessel shall not be used.

(6) Woodwork or other combustible materials above appliance tops and all woodwork or combustibles immediately surrounding stoves shall be effectively insulated with noncombustible materials or sheathing.

History: 1954 ACS 59, p. 15, Eff. Aug. 14, 1969.

R 281.2036 Alcohol, fuel oil, and kerosene stoves and appliances.

Rule 36. (1) Alcohol, fuel oil, and kerosene stoves and appliances of either pressure or gravity fed burner types, are permissible.

(2) A fuel tank for such a stove or appliance shall be constructed of corrosion resistant metal with welded or brazed joints and fittings.

(3) A pressure tank integrally installed with such a stove or appliance shall withstand a test pressure of at least 200 pounds per square inch gage, and shall be effectively protected from the heat of the burners.

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(4) A pressure tank for remote installation shall withstand a test pressure of at least 100 pounds per square inch gage, and shall be rigidly secured in an accessible location permitting convenient filling and pump operation.

(5) A gravity tank shall be substantially secured and shall be installed separate and remote from stoves and appliances. It shall be so located or shielded that under continuous operation at maximum output, the temperature of contained fuel will not be substantially raised by heat from burners.

(6) A gravity tank shall not have a capacity exceeding 2 gallons, and shall have provision for filling and venting outside the space containing the stove or appliances unless otherwise approved by the marine inspector.

(7) A remotely located fuel tank shall have an approved stop valve installed close to the tank. Fuel lines shall be installed with as few fittings as practicable between valves and stove or appliance connections.

History: 1954 ACS 59, p. 16, Eff. Aug. 14, 1969.

R 281.2037 Gasoline and liquefied petroleum gas stoves and appliances.

Rule 37. Stoves and appliances using liquid gasoline or liquefied petroleum gas for fuel shall not be used aboard a vessel, except that a vessel operating on nonnavigable waters of the United States, and approved for the use of liquefied petroleum gas as fuel for cooking under Act No. 113 of the Public Acts of 1909, as amended, being §§408.251 to 408.287 of the Michigan Compiled Laws, now repealed, may be approved if the system is installed, maintained and operated in a manner approved by the marine inspector.

History: 1954 ACS 59, p. 16, Eff. Aug. 14, 1969.

R 281.2044 Electrical wiring.

Rule 44. (1) Wiring shall be routed as high as possible above the bilge with prime consideration given to the protection of the wiring from mechanical damage.

(2) Individual wires and harnessed wires shall be supported with clamps or straps at least every 14 inches to fixed structural members of the vessel. Staples shall not be used for this purpose.

(3) Exposed wiring subject to mechanical damage shall be protected by loom, or other equivalent means.

(4) Wiring passing through bulkheads or other structural members shall be adequately protected against chafing.

History: 1954 ACS 59, p. 16, Eff. Aug. 14, 1969.

R 281.2045 Electrical equipment.

Rule 45. (1) Appliances and fixed AC electrical equipment used on a vessel shall be so designed that the current-carrying parts of the device are effectively insulated from exposed metal parts by a dielectric material suitable for use in dam and/or wet locations, depending on the location of the device and its intended usage.

(2) The frames of electrical appliances and equipment shall be grounded to the hull of metallic vessels or to the bonding system of nonmetallic vessels.

(3) Electrical equipment containing potential sources of ignition of flammable vapors installed in machinery spaces or other areas where flammable vapors may be present, shall be so designed, enclosed or protected to prevent ignition of external flammable vapors.

(4) Switches and circuit breakers used in the circuit shall be of an approved type that will simultaneously disconnect both current-carrying conductors, except

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that switches which are an integral part of permanently installed cabin lighting fixtures may be of the single pole type.

History: 1954 ACS 59, p. 16, Eff. Aug. 14, 1969.

R 281.2046 Storage batteries.

Rule 46. (1) An electrical storage battery shall not be tapped for voltages other than the total voltage of all the cells comprising the battery.

(2) A battery shall be so located that gas generated in charging will be dissipated by natural or mechanical ventilation.

(3) A battery shall be accessibly located, provided with suitable supports, and secured against shifting with the motion of the vessel.

(4) An acid battery shall be located in a liquid tight tray of adequate capacity to retain normal spillage or boilover of the electrolyte. It shall be constructed of, or lined with, materials resistant to deterioration by the electrolyte.

(5) A nonconductive, perforated cover or suitable means shall be provided to prevent accidental shorting of battery terminals.

History: 1954 ACS 59, p. 17, Eff. Aug. 14, 1969.

R 281.2051 Fire extinguisher systems and pumps.

Rule 51. (1) In a vessel with an installed fixed fire extinguisher system, the cylinders shall be weighed and tagged each year by a qualified firefighting repair service. The system shall be installed in accordance with good marine practice and be in good working condition.

(2) A power driven fire pump shall be installed on a mechanically propelled vessel which is permitted to carry more than 49 passengers. The power driven fire pump shall be self-priming and of such size as to discharge an effective stream from a hose connected to the highest outlet. The power fire pump may be driven off a propulsion engine or other source of power and shall be connected to the fire main. The pump may also be connected to the bilge system so that it can serve as either a fire pump or a bilge pump.

History: 1954 ACS 59, p. 17, Eff. Aug. 14, 1969.

R 281.2052 Fire main systems.

Rule 52. (1) A vessel required to have a power driven fire pump shall also be provided with a fire main system including fire main, hydrants, hose and nozzles.

(2) Fire hydrants shall be of sufficient number and so located that any part of the vessel may be reached with an effective stream of water from a single length of hose.

(3) Piping, valves and fittings shall be provided and installed in accordance with good marine practice and be suitable for the purpose intended.

(4) One length of firehose shall be provided for each fire hydrant. Firehose may be commercial firehose or equivalent of not over 1½-inch diameter or garden hose of not less than ⅝-inch nominal inside diameter. Hose shall be in 1 piece not less than 25 feet nor more than 50 feet long. Garden hose, when used, shall be of a good commercial grade constructed of an inner rubber tube, plies of braided cotton reinforcement and an outer rubber cover or equivalent material, and shall be fitted with a commercial garden hose nozzle of good grade bronze or equivalent metal. A length of firehose shall be attached to each fire hydrant at all times.

History: 1954 ACS 59, p. 17, Eff. Aug. 14, 1969.

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R 281.2053 Portable fire extinguishers; classes.

Rule 53. Portable fire extinguishers installed on vessels shall be of the U.S. coast guard approved class B-1 or B-2. Such class extinguishers are of the following content and capacities:

Type	Class B-1	Class B-2
Foam	1¼ gallons	2½ gallons
Carbon dioxide	4 pounds	15 pounds
Dry chemical	2 pounds	10 pounds

History: 1954 ACS 59, p. 17, Eff. Aug. 14, 1969.

R 281.2054 Portable fire extinguishers; number and location.

Rule 54. (1) The minimum number of portable fire extinguishers required on a vessel and the location on the vessel is shown in the following table:

Type-Length	Class	Minimum Number of Extinguishers	Locations
Open Vessels			
Less than 16 feet	B1	1	Helmsman's position
16 feet or over	B1	2	Helmsman's position and passenger's space
Compartmented Vessels			
Less than 26 feet	B1	2	Helmsman's position and cabin
26 feet to less than 40 feet	B1	3	Engine compartment,** helmsman's position and galley
40 feet or over	B1	4*	Engine compartment,** helmsman's position, crew quarters and galley

*Where more than three B-1 units are recommended, the extinguishing capacity may be made up of a smaller number of B-2 units, if each location is protected with a readily accessible extinguisher.

**On a vessel with a fixed fire extinguisher system portable extinguishers may not be required for the engine space.

(2) Portable fire extinguishers in an engine compartment shall be located so as to be convenient to the space protected. Extinguishers recommended for an engine compartment shall not be located inside the compartment but shall be located near an entrance to the compartment unless someone is normally present in the compartment.

(3) A vessel over 16 feet in length shall carry at least 1 bucket with lanyard attached with which to fight fires in ordinary combustible materials such as wood, cloth, and paper.

History: 1954 ACS 59, p. 18, Eff. Aug. 14, 1969.

R 281.2055 Portable fire extinguishers; maintenance.

Rule 55. (1) Fire extinguishers shall be examined at regular intervals to make certain that they have not been tampered with and have not suffered corrosion or damage. Seals shall be inspected to determine that the extinguishers have not been operated since last being charged.

(2) A foam extinguisher shall be discharged, cleaned, inspected for mechanical defects or serious corrosion, and recharged annually.

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(3) A dry chemical extinguisher shall be kept full with specified weight of chemical at all times. The cartridge shall be reweighed annually and if found to weigh less than the minimum weight stamped thereon shall be replaced with a full one or recharged. An extinguisher with a gage shall be recharged when the pressure is below prescribed operating limits. The following are special attention items required for proper maintenance of this type extinguisher:

(a) The extinguisher shall be refilled after use even though only partly discharged.

(b) Before recharging, the hose shall be cleaned of all chemical.

(c) The extinguisher shall be manually shaken at least each 6 months to avoid any packing that might develop in it.

(4) A carbon dioxide extinguisher shall be reweighed annually, and a cylinder found lighter than the weight indicated on the name plate shall be recharged.

History: 1954 ACS 59, p. 18, Eff. Aug. 14, 1969.

R 281.2057 Deck rails.

Rule 57. (1) Except as otherwise provided in these rules, rails or equivalent protection shall be installed near the periphery of all weather decks accessible to passengers and crew. However, where space limitations make deck rails impractical, such as at narrow catwalks in way of deckhouse sides, hand grabs may be substituted.

(2) Rails shall consist of evenly spaced courses and the spacing between courses shall not be greater than 12 inches.

(3) The lower rail courses may not be required where the space below the upper rail course is fitted with a bulwark, chain link fencing, wire mesh or the equivalent.

(4) On a passenger deck of a vessel engaged in a ferry or excursion-type operation, rails shall be at least 42 inches high. The space below the rail shall be fitted with bulwarks, chain link fencing, wire mesh or the equivalent.

(5) On the cockpit of a sport fishing vessel where the side height from floor to top of the coaming is less than 26 inches, rails to bring the height to at least 26 inches shall be provided.

(6) Other rails shall be at least 36 inches high.

History: 1954 ACS 59, p. 18, Eff. Aug. 14, 1969.

R 281.2058 Vessels carrying vehicles.

Rule 58. A vessel carrying vehicles shall have suitable chains, cable, or other barriers installed at the ends of the vehicle runways. Suitable gates, rails, or other devices shall also be installed as a continuation of the regularly required rails.

History: 1954 ACS 59, p. 19, Eff. Aug. 14, 1969.

R 281.2061 Whistles and fog bells.

Rule 61. (1) A vessel shall be provided with an efficient whistle or other sound-producing mechanical device as noted in the following table:

Vessel Length	Type of Device
Less than 16 feet	None
16 feet to less than 26 feet	Mouth, hand, or power operated capable of producing a blast of 2 seconds or more duration, and audible for at least ½ mile.

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26 feet to less than 40 feet	Hand or power operated, capable of producing a blast of 2 seconds or more duration, and audible for a distance of at least 1 mile.
40 feet or over	Power operated, capable of producing a blast of 2 seconds or more duration, and audible for a distance of at least 1 mile.

(2) A vessel of 26 feet in length and over shall be provided with an efficient fog bell.

History: 1954 ACS 59, p. 19, Eff. Aug. 14, 1969.

R 281.2062 Compasses.

Rule 62. A vessel, except the following, shall be fitted with a suitable compass:

(a) Vessel in river service.

(b) Non self-propelled vessel.

(c) Vessel operating in protected waters with short restricted routes.

History: 1954 ACS 59, p. 19, Eff. Aug. 14, 1969.

R 281.2063 Lights.

Rule 63. (1) A vessel shall be fitted with navigation lights in accordance with applicable state and federal law and rules.

(2) A vessel operating in the night shall be equipped with a suitable number of portable battery lights (flashlights) as determined by the marine inspector.

History: 1954 ACS 59, p. 19, Eff. Aug. 14, 1969.

R 281.2064 Ground tackle and anchors.

Rule 64. (1) A vessel shall be fitted with suitable ground tackle and line as approved by the marine inspector for the size of the vessel and for the waters on which the vessel is certified to operate.

(2) The length of anchor line shall be 7 feet for each foot of depth of water on which the vessel normally operates, within reason but not less than 150 feet.

(3) It is recommended that a passenger fishing vessel operating on the Great Lakes be equipped with a sea anchor of a type approved by the U. S. coast guard and of sufficient size and with a line, having a minimum length of 150 feet, suitable for the size vessel.

History: 1954 ACS 59, p. 20, Eff. Aug. 14, 1969.

R 281.2065 Pyrotechnic distress signals.

Rule 65. (1) A vessel shall carry pyrotechnic distress signals of a type approved by the U. S. coast guard. Pyrotechnic distress signals are not required on a vessel when its operating time away from the dock is limited to approximately 30 minutes.

(2) A vessel required to carry distress signals shall carry 3 hand red flare distress signals and 3 hand orange smoke distress signals or 6 hand combination flare and smoke distress signals. Pistol firing type flares are approved for such use.

(3) Service use of distress signals shall be limited to a period of 3 years from date of manufacture, and replacement shall be made no later than the first inspection for certification or reinspection after the date of expiration.

(4) Distress signals shall be carried in a watertight container in the pilothouse or in another location considered suitable by the marine inspector.

History: 1954 ACS 59, p. 20, Eff. Aug. 14, 1969.

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R 281.2067 Fixed seats.

Rule 67. (1) Fixed seats when used shall be installed as follows:

(a) Aisles not over 15 feet long shall be not less than 24 inches wide.

(b) Aisles over 15 feet long shall be not less than 30 inches wide.

(c) Where seats are in rows the distance from seat front to seat front shall be not less than 30 inches.

(d) Seat spacing shall provide for ready escape in case of fire or other emergency. Portable or temporary seats shall be arranged as required for fixed seating.

History: 1954 ACS 59, p. 20, Eff. Aug. 14, 1969.

R 281.2068 Toilet facilities.

Rule 68. (1) A vessel shall be provided with toilets and wash basins in accordance with the following table except that a vessel operating on short runs of approximately 30 minutes or less need not be fitted with toilets or wash basins.

Numbers of Passengers	Toilets	Wash Basins
49 and less	1	0
Over 49 (men and women)	1 for men	1 for men
	1 for women	1 for women
Over 49 (men only)	2	1

(2) A vessel shall be equipped with a toilet effluent treatment device as required by state and federal law and rules.

History: 1954 ACS 59, p. 20, Eff. Aug. 14, 1969.

R 281.2069 Life preservers.

Rule 69. (1) A vessel shall be provided with an adult-type life preserver for each person on board. A number of life preservers suitable for children shall be provided equal to at least 10% of the total number of persons on board.

(2) Life preservers shall be of U.S. coast guard approved type, and marked with a C. G. stamp stating that the life preservers are approved for use on vessels carrying passengers for hire.

(3) Kapok and fibrous glass life preservers which do not have plastic covered pad inserts shall be removed from service. Life preservers found in an unsatisfactory condition by the marine inspector shall be removed from the vessel and destroyed on the spot by the owner or his representative assisting in the inspection.

(4) Life preservers shall be distributed throughout the upper part of the vessel in protected places convenient to the persons on board. Life preservers for children shall be stowed separately.

(5) If practicable, life preserver containers shall be so designed as to allow the life preservers to float free.

History: 1954 ACS 59, p. 20, Eff. Aug. 14, 1969.

R 281.2070 Ring life buoys and water lights.

Rule 70. (1) A vessel shall be equipped with an approved ring life buoy not less than 24 inches in diameter, except that a vessel less than 26 feet in length may use a ring life buoy not less than 20 inches in diameter.

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(2) The ring life buoy shall be placed to be readily accessible. It shall be capable of being cast loose, shall not be permanently secured in any way, and shall have attached to it a line at least 60 feet in length.

(3) A vessel not limited to daytime operation shall be provided with an approved water light for night use which shall be stowed close to or attached to the ring buoy.

History: 1954 ACS 59, p. 21, Eff. Aug. 14, 1969.

R 281.2071 Marking of life preservers, life buoys, and containers.

Rule 71. (1) Life preservers and ring life buoys shall be marked with the vessel's name or number in characters and numbers at least 1 inch high and in a color contrasting to the color of the lifesaving device.

(2) When life preservers are stowed so that they are not readily visible to passengers, their containers shall be marked "Life Preservers" and with the number contained therein, in letters and figures at least 1 inch high and in a color contrasting to the color of the container. This legend shall indicate the separate stowage of children's life preservers.

History: 1954 ACS 59, p. 21, Eff. Aug. 14, 1969.

R 281.2072 Lifefloats or buoyant apparatus.

Rule 72. A vessel operating on the Great Lakes more than 10 miles offshore shall carry sufficient lifefloats or buoyant apparatus for not less than 50% of the persons on board.

History: 1954 ACS 59, p. 21, Eff. Aug. 14, 1969.

R 281.2075 Outboard vessels.

Rule 75. (1) An outboard vessel is also subject to the additional requirements set forth in this rule.

(2) An outboard powered vessel shall carry either an operable licensed radiotelephone, or a minimum of 2 outboard motors in good operating condition at all times while carrying passengers.

(3) The operator of an outboard powered vessel shall carry sufficient gasoline on board in approved gas tanks to sustain a full day's operation under normal operating conditions with a reasonable reserve.

(4) Gas tanks shall be properly secured to prevent shifting while underway and evenly distributed on both sides of the vessel. Sufficient lengths of fuel lines shall be provided from the outboard motor to reach the furthest fuel tank without removing the tank from its secured location.

(5) An outboard motor shall be of sufficient size and power to enable the vessel to be operated, fully loaded, in a safe and prudent manner.

History: 1954 ACS 59, p. 21, Eff. Aug. 14, 1969.

R 281.2079 Emergency checkoff lists.

Rule 79. (1) An emergency checkoff list shall be posted aboard a vessel in a conspicuous location visible to passengers and crew.

(2) The checkoff list shall include the items contained in the following list:

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EMERGENCY CHECKOFF LIST

A—ROUGH WEATHER AT SEA OR CROSSING HAZARDOUS BARS

1. Close all watertight and weathertight doors, hatches, and airports to prevent taking water aboard.
2. Keep bilges dry to prevent loss of stability due to water in bilges.
3. Keep passengers seated and evenly distributed.
4. Have passengers put on life preservers if the going becomes very rough or you are about to cross a hazardous bar.
5. Never abandon a vessel (particularly a wooden boat) unless actually forced to do so.
6. If assistance is needed use the International Distress call over radiotelephone or call the Coast Guard immediately.
7. Prepare any lifefloats on board for launching.

B—MAN OVERBOARD

1. Throw a ring buoy as close to the person as possible.
2. Post a lookout to keep the person overboard in sight.
3. Maneuver the vessel to pick up the person in the water.
4. Have crew member put on lifejacket, attach a safety line to him and have him stand by to jump into the water to assist the person overboard if necessary.
5. If person is not immediately located notify Coast Guard and other vessels in vicinity by radiotelephone.
6. Continue search until released by the Coast Guard.

C—FIRE AT SEA

1. Cut off air supply to fire—close hatches, ports, doors, and ventilators, etc.
2. Immediately use portable fire extinguishers at base of flames for inflammable liquid or grease fires; or water for fires in ordinary combustible materials.
3. If fire is in machinery space, shut off fuel supply and ventilation and discharge fixed CO_2 if installed.
4. Maneuver vessel to minimize effect of wind on fire.
5. If unable to control fire, immediately notify the Coast Guard and other boats in the vicinity by radiotelephone, etc.
6. Move passengers away from fire, have them put on life preservers and if necessary prepare to abandon ship.

History: 1954 ACS 59, p. 21, Eff. Aug. 14, 1969.

R 281.2081 Public liability insurance.

Rule 81. The owner of a vessel shall carry, or cause to be carried, bodily injury liability insurance covering each passenger aboard. The minimum coverage limits shall be $100,000.00 total per accident.

History: 1954 ACS 59, p. 22, Eff. Aug. 14, 1969.

R 281.2091 Inspectors' authority to waive rules.

Rule 91. A marine inspector may waive any of R 281.2021 to R 281.2079 when, in his judgment, compliance with the rule:

(a) Would place an unreasonable burden upon the vessel owner, and

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(b) Because of the nature or type of vessel involved, would not materially enhance the safety of the vessel or its operation.

History: 1954 ACS 59, p. 22, Eff. Aug. 14, 1969.

PART 3. CERTIFICATION OF VESSELS

R 281.2101 Certificates of inspection; navigable waters of the United States.

Rule 101. (1) An application for a certificate of inspection for a vessel carrying more than 6 passengers for hire on navigable waters of the United States shall be made to the United States coast guard.

(2) An application for a certificate of inspection for a vessel to carry 6 or less passengers on a vessel on navigable waters of the United States, except a vessel less than 16 feet in length and carrying 3 passengers or less, shall be made in writing to the commission on forms furnished by the commission. The applicant shall certify to the truth of the statements in the application.

History: 1954 ACS 59, p. 22, Eff. Aug. 14, 1969.

R 281.2102 Certificates of inspection; nonnavigable waters of the United States.

Rule 102. An application for a certificate of inspection for a vessel carrying passengers for hire on nonnavigable waters of the United States, except a vessel less than 16 feet in length and carrying 3 passengers or less, shall be made in writing to the commission on forms furnished by the commission. The applicant shall certify to the truth of the statements in the application.

History: 1954 ACS 59, p. 23, Eff. Aug. 14, 1969.

R 281.2104 Initial inspection; scope.

Rule 104. An initial vessel inspection shall include but not be limited to the following items:

(a) Arrangement, materials and scantlings of the structure.

(b) Piping.

(c) Main and auxiliary machinery.

(d) Electrical installations.

(e) Lifesaving appliances.

(f) Fire extinguishing equipment.

(g) Compliance with all state and federal laws and rules governing equipment and vessel operations on waters of this state.

History: 1954 ACS 59, p. 23, Eff. Aug. 14, 1969.

R 281.2105 Drydocking and hauling out.

Rule 105. (1) A vessel operating exclusively in fresh water shall be drydocked or hauled out at intervals of not to exceed 60 months. The marine inspector shall examine the underwater hull and appendages, propellers, shafting, stern bearings, rudders, through hull fittings, and sea valves and strainers, and determine that these items are in satisfactory condition.

(2) When a vessel is to be drydocked or hauled out to carry out major repairs or alterations affecting its safety or seaworthiness, the person in charge of the vessel, the owner or his agent shall report to the commission the nature of the repairs or alterations contemplated, as far in advance as possible.

History: 1954 ACS 59, p. 23, Eff. Aug. 14, 1969.

R 281.2106 Hull and machinery inspection.

Rule 106. (1) At each initial and subsequent inspection for certification, the marine inspector shall view the vessel afloat.

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(2) The inspector shall examine all accessible parts of the exterior and interior of the hull. Where the internals of the vessel are completely concealed, sections of the lining or ceiling may be removed or the parts otherwise probed or exposed so that the inspector may satisfy himself as to the condition of the hull structure.

(3) The inspector shall inspect all railings and bulwarks and their attachment to the hull structure. Special attention shall be paid to insure that guards or rails are provided in all dangerous places.

(4) The inspector shall examine and test run all machinery on board. The marine inspector may require that the main propulsion machinery be operated both ahead and astern.

(5) The inspector shall examine and test the main and auxiliary steering apparatus to the extent necessary to determine that its condition is satisfactory and that it is fit for the service intended.

(6) The inspector shall examine the bilges and other spaces to see that there is no accumulation of oil or other matter which might create a fire hazard.

History: 1954 ACS 59, p. 23, Eff. Aug. 14, 1969.

R 281.2107 Equipment required by other law.

Rule 107. At each initial and subsequent inspection for certification, the marine inspector shall examine and test all items in the vessel's outfit, such as ground tackle, navigation and running lights, and radio communication equipment, which are required to be carried by other state and federal laws and rules. The examination and test shall be to the extent necessary to determine that the condition of the item is satisfactory and that it is fit for the service intended.

History: 1954 ACS 59, p. 23, Eff. Aug. 14, 1969.

R 281.2108 Electrical systems.

Rule 108. At each initial and subsequent inspection for certification, the marine inspector shall examine and test the electrical system to determine that it is in proper operating and safe condition and fit for the service intended.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

R 281.2109 Sanitary inspection.

Rule 109. At each initial and subsequent inspection for certification, the marine inspector shall examine the passenger and crew quarters, toilets and washing spaces, galleys, serving pantries, and lockers, to determine that they are serviceable and in a sanitary condition.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

R 281.2110 Correction of hazards.

Rule 110. At each initial and subsequent inspection for certification, and at every other vessel inspection, the marine inspector shall require that all observed unsafe practices and hazardous situations be corrected.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

R 281.2115 Duration and renewal of certificates.

Rule 115. An issued certificate of inspection is valid for 1 year from the date of issuance unless revoked or surrendered. The certificate of inspection may be renewed annually by applying to the commission for inspection.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

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R 281.2116 Contents of certificates.

Rule 116. A certificate of inspection shall describe the vessel, the route which it may travel, the minimum manning requirements, the lifesaving equipment to be carried, the minimum fire extinguishing equipment to be carried, the maximum number of passengers and the maximum number of persons which may be carried, and the name of the owner or charterer.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

R 281.2117 Posting of certificates.

Rule 117. A certificate of inspection shall be framed under glass or other transparent material and placed in a conspicuous place on the vessel. Where posting of the certificate is impractical the certificate shall be kept on board to be shown on demand.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

R 281.2118 Number of passengers.

Rule 118. The maximum number of passengers which may be carried on a vessel may be determined by the marine inspector by applying 1 of the following criteria which results in the allowance of the greatest number of passengers for the vessel:

(a) Length of rail criteria or 1 passenger per 30 inches of rail space available to passengers at the vessel's sides and across the transom.

(b) Deck area criteria of 1 passenger per 10 square feet of deck area available for passenger use. In computing the deck area, the areas occupied by concession stands, toilets and washrooms, companionways, and stairways shall be excluded.

(c) Fixed seating criteria of 1 passenger per 18 inches of width of fixed seating provided.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

R 281.2119 Suspension and revocation of certificates.

Rule 119. If at any time subsequent to an inspection of a vessel and the issuance of a certificate, changes to the hull or any portion of the vessel including equipment required to be carried on board are found to have occurred so that the vessel no longer meets the minimum standards prescribed therefor, the certificate shall be revoked and immediately surrendered to the commission.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

R 281.2120 Ownership of certificates.

Rule 120. An issued certificate shall remain the property of the commission and shall be surrendered to the inspector or other commission agent upon demand.

History: 1954 ACS 59, p. 24, Eff. Aug. 14, 1969.

PART 4. LICENSING OF OPERATORS

R 281.2121 Applications for licenses.

Rule 121. (1) An application for a license to operate a vessel carrying passengers for hire on navigable waters of the United States shall be made to the United States coast guard.

(2) An application for a license to operate a vessel carrying passengers for hire on nonnavigable waters of the United States shall be made to the commission on

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forms furnished by the commission. The applicant shall certify to the truth of the statements in the application.

History: 1954 ACS 59, p. 25, Eff. Aug. 14, 1969.

R 281.2122 Qualifications of applicants.

Rule 122. (1) An applicant for a license from the commission shall establish to the satisfaction of the commission that he possesses the qualifications prescribed by these rules before he is entitled to take the examination for a license.

(2) An applicant for a license shall be at least 18 years of age.

(3) An applicant for a license shall not have been convicted by a court of record of a violation of the narcotic drug laws of the United States, the state of Michigan, or any state or territory of the United States within 10 years before the date of filing his application; or shall not have been the user of or addicted to the use of a narcotic drug, unless he furnished satisfactory evidence that he is cured.

(4) An applicant for a license shall not have been convicted by a court of record of a violation of the marine laws of the United States, the state of Michigan, or any state or territory of the United States within 5 years before the date of filing his application.

(5) An applicant for a license shall have at least 1 year of experience as an operator of the type of vessel for which an operator's license is sought.

History: 1954 ACS 59, p. 25, Eff. Aug. 14, 1969.

R 281.2123 Physical examinations of applicants.

Rule 123. (1) An applicant for an original license shall pass a physical examination given by a licensed physician of this state and present a certificate signed by the physician attesting to the applicant's acuity of vision, color sense, and general physical condition. Epilepsy, insanity, senility, acute general disease or neurosyphilis, badly impaired hearing, or other defect that would render the applicant incompetent to perform the ordinary duties of a licensed operator are causes for denial of the application.

(2) The commission, when there is reason to doubt the operator's physical or visual abilities, may require him at any time to obtain a new physical examination as to his fitness to operate a vessel.

History: 1954 ACS 59, p. 25, Eff. Aug. 14, 1969.

R 281.2124 Vision of applicants.

Rule 124. For an original license as an operator, an applicant shall have, either with or without glasses, at least 20/20 vision in 1 eye and at least 20/100 in the other eye. The color sense shall be tested by means of a pseudoisochromatic plate test.

History: 1954 ACS 59, p. 25, Eff. Aug. 14, 1969.

R 281.2125 Exceptions to physical requirements.

Rule 125. When an applicant is not possessed of the vision, hearing, or general physical condition necessary, the marine inspector, after consultation with the examining physician, may recommend to the commission an exception to the requirements of R 281.2123 and R 281.2124, if in his opinion extenuating circumstances warrant special consideration.

History: 1954 ACS 59, p. 25, Eff. Aug. 14, 1969.

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R 281.2126 Examinations for licenses.

Rule 126. A qualified applicant for a license shall take and pass an examination. The examination for an original operator's license shall cover the following subjects:

(a) Duties of an operator.

(b) Rules of the road applicable to the waters over which the applicant intends to operate.

(c) General knowledge and ability to navigate his vessel with safety to life and property.

(d) Proficiency in vessel handling and operation.

(e) Operation of the propelling machinery, particularly the safe and proper handling of fuel.

(f) Proper management of a vessel and crew in case of emergency.

(g) Fire protection and extinguishment of fires.

(h) Lifesaving equipment.

(i) Simple first aid.

History: 1954 ACS 59, p. 25, Eff. Aug. 14, 1969.

R 281.2127 Exhibition of licenses.

Rule 127. A licensed operator, when operating a vessel for hire, shall place his certificate of license framed under glass, in a conspicuous place in the vessel, where it can be seen by passengers and other persons at all times. Where such exhibition is impracticable, the certificate of license shall be carried on board and shown on demand.

History: 1954 ACS 59, p. 26, Eff. Aug. 14, 1969.

R 281.2128 Duration and renewal of licenses.

Rule 128. (1) An operator's license is valid for 1 year from the date of issue.

(2) An operator's license may be renewed by application to the commission. The marine inspector may waive the physical examination requirement and the examination on vessel handling and operation.

History: 1954 ACS 59, p. 26, Eff. Aug. 14, 1969.

R 281.2129 Ownership of licenses.

Rule 129. An issued license shall remain the property of the commission and shall be surrendered to the inspector or other commission agent upon demand.

History: 1954 ACS 59, p. 26, Eff. Aug. 14, 1969.

R 281.2130 Suspension and revocation of licenses.

Rule 130. Negligent or improper operation of a vessel, personal misconduct, physical impairment of the operator, or falsification of information given on a license application are grounds for suspension or revocation of an operator's license.

History: 1954 ACS 59, p. 26, Eff. Aug. 14, 1969.

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DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION COMMITTEE

CONDUCT OF REFERENDA AND ELECTIONS

(By authority of Act No. 297 of the Public Acts of 1937, as amended, being §282.1 et seq. of the Michigan Compiled Laws)

R 282.1 Notice of referendum or election.

Rule 1. (1) After the committee has legally made and recorded a determination that there is need for the organization of a district in a particular territory, or for the inclusion of additional territory within an existing district, and has defined the boundaries thereof, it shall set the date for a referendum and directors' election. The notice of the referendum or election shall include the following:

(a) The name of the district, or proposed district.
(b) The date fixed for holding the referendum or election.
(c) The hours of opening and closing the polls.
(d) The place or places at which the polls will be located.
(e) The purpose and object of the referendum or election.
(f) Who is eligible to vote.

Provided, that a notice of referendum upon creation of a proposed district, or inclusion of additional territory within an existing district shall include a description of the boundaries of the territory involved, as defined by the committee in its determination of need; and, provided further, that where more than 1 voting place has been established, the notice shall contain an adequate description of the voting unit to be served by such voting places in order that the eligible voters may determine their respective voting places.

(2) The notice shall also state the name and address of the person appointed as polling superintendent and shall state that eligible voters, who will be absent from their voting unit on the day of the referendum and election, may apply to such superintendent in person, or in writing, for a voter's registration and qualification form and an absentee ballot.

(3) The date fixed for the holding of the referendum, election, or both shall not, in so far as practicable, conflict with that fixed for any public holiday.

(4) Where the notice of referendum is had by publication, as prescribed in section 5 of the soil conservation districts law, the first publication shall be at least 12 days prior to the date fixed for holding the referendum and the final publication shall not be more than 5 days prior thereto. Where the notice of the election is had by publication, as prescribed in section 5 of the soil conservation districts law, the first publication shall be at least 12 days prior to the date fixed for holding the election, and the final publication shall be not more than 5 days prior thereto. In the event that notice is had by posting, as provided in said section 5, such posting shall be made at least 12 days prior thereto.

History: 1944 ACS 8, p. 24; 1954 AC, p. 1401.

R 282.2 Designation of voting place or places.

Rule 2. (1) If the committee shall consider it is necessary or convenient for voting purposes to establish more than 1 voting place, the committee shall enter an order establishing a suitable number of voting places, and defining the area which constitutes the voting division to be served by each such place. If only 1 voting

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place is established within the proposed territory, the whole of such territory shall be considered as a voting unit within the meaning of these rules.

(2) In determining the place or places at which the voting place shall be established, due regard shall be given to accessibility and convenience of such place to the eligible voters of the proposed territory, in view of existing highways and modes of transportation, as to give the greatest number the opportunity of voting.

(3) Voting places may be located on lands outside the boundaries of the proposed territory if such locations are more accessible and convenient to the eligible voters within such territory.

(4) At all subsequent referenda and elections held within a district, the same voting places shall be designated unless it appears to the committee that it be necessary or convenient that the voting places be changed for the purpose of giving the greatest number of eligible voters the opportunity of voting. If such voting places be changed, the committee shall enter an order to that effect.

History: 1944 ACS 8, p. 24; 1954 AC, p. 1401.

R 282.3 Appointment of officials for conduct of referendum or election.

Rule 3. (1) At each referendum or election there shall be a polling superintendent who shall supervise the conduct of the referendum or election throughout the district, or proposed district, and shall perform the duties hereinafter provided. There shall also be a polling board for each voting place, consisting of 3 polling officers, who shall be responsible for, and in charge of, the voting at their respective polling place.

(2) The polling officials shall be appointed by the committee at any meeting thereof held prior to the publication or posting of notice of referendum or election for which they are to act. Members of the polling board shall be qualified electors for any general election.

(3) If, during the progress of the referendum or election, any member shall cease to act, the remaining members may appoint some suitable person to act in his stead. In all questions concerning the eligibility of voters, the polling officers shall act as a body and the action of a majority shall be the decision of the board.

(4) The persons appointed as polling officials shall be notified by the committee in writing of their appointment, which notice shall be delivered to the appointees, together with the copy of the oath of office. The oath, after being sworn and subscribed to by the appointee, shall be immediately returned to the committee and filed with the other papers pertaining to the district.

History: 1944 ACS 8, p. 25; 1954 AC, p. 1402.

R 282.4 Eligible voters.

Rule 4. (1) All owners or occupiers of any lands 3 or more acres in extent lying within the boundaries of such proposed district shall be entitled to vote, provided that where the title is held by 2 or more persons jointly, all persons having such a joint interest shall be entitled to vote, and, provided further, that 1 officer or agent of any corporate land owner, or estate, duly authorized in writing, by either general or special power, may cast a vote on behalf of said corporation and when so voting he shall exhibit to the election officers such written instrument of his authority.

(2) All land occupiers of 3 or more acres of land in the district are eligible to vote for directors.

(3) A voter residing within the district shall vote at the voting place in the voting unit in which he resides; and a voter not residing in the district shall vote at

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the voting place for the unit which includes his farm headquarters, and if he has more than 1 farm headquarters, in the unit including the greater part of his land.

History: 1944 ACS 8, p. 25; 1954 AC, p. 1402.

R 282.5 Ballots.

Rule 5. (1) Ballots to be used at a referendum upon the creation of a proposed district shall have printed or mimeographed upon them the words "For creation of a soil conservation district of the lands below described and lying in the county (ies) of _____ and _____" and "Against creation of a soil conservation district of the lands below described and lying in the county (ies) of _____ and _____" with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions, as the voter may favor or oppose the creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee.

(2) Ballots to be used at a referendum upon inclusion of additional territory within an existing district shall have printed or mimeographed upon them the words "For inclusion of the lands below described and lying in the county (ies) of _____ and _____ within the _____ soil conservation district" and "Against inclusion of the lands below described and lying in the county (ies) of _____ and _____ within the _____ soil conservation district" with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions, as the voter may favor or oppose the inclusion of the lands within such district. The ballots shall set forth the boundaries of the lands proposed for inclusion as determined by the committee.

(3) Ballots to be used at an election of directors for a district shall have printed or mimeographed upon them the names of all nominees on behalf of whom nominating petitions have been filed within the time prescribed in section 5 of the soil conservation districts law, arranged in the alphabetical order of the surnames, with a square before each name and a direction to insert an X mark in the square before any 3 names to indicate the voter's preference.

(4) In addition to the matter described in the 3 preceding paragraphs, the ballots shall contain the name of the district or proposed district and the date of the referendum or election. The ballots shall bear no other marks.

(5) The committee shall cause to be printed or mimeographed, in accordance with the preceding paragraphs of this section, a supply of ballots sufficient to meet the demands for the particular referendum or election. A sufficient number of the ballots shall be delivered to the polling superintendent for the district, or proposed district, at least 15 days prior to the day of the referendum or election, to enable him to comply with the provisions regarding absentee voting. The remainder of the ballots shall be delivered to the polling superintendent at least 3 days prior to the date of the referendum or election for distribution to the respective polling boards within his district, as hereinafter provided.

History: 1944 ACS 8, p. 25; 1954 AC, p. 1402.

R 282.6 Voting supplies.

Rule 6. (1) The committee shall furnish each polling board with the necessary supplies, consisting of:

(a) Official ballots.
(b) Original and duplicate poll list.
(c) Original and duplicate tally sheet.
(d) Instructions to election officers.
(e) Voter's registration and qualification card.

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(2) The supplies shall be delivered to the polling superintendent for the district not later than 3 days prior to the day of the referendum or election. It shall be his duty to distribute the supplies to the various polling boards within the district not later than the day before the referendum or election. He shall also immediately after the referendum or election collect the returns and all unused supplies from the polling boards and forward the same to the state committee, as hereinafter provided.

(3) It shall be the duty of the polling board to provide quarters for balloting where each voter can prepare and cast his ballot, without interference and without anyone seeing how he votes (but it shall not be necessary to provide private booths).

History: 1944 ACS 8, p. 26; 1954 AC, p. 1403.

R 282.7 Opening and closing polls; voting.

Rule 7. (1) On the day fixed for holding the referendum or election, the polls shall be opened and closed in accordance with the hours designated in the notice thereof. Voting may commence as soon as the polls are open and may be continued during all the time the polls remain open. Any eligible voter present at the time the polls are closed shall be permitted to cast his vote.

(2) Every applicant to vote shall satisfy the polling officials as to his eligibility to vote by his certification on the official voter's registration and qualification form, substantially as follows:

VOTER'S REGISTRATION AND QUALIFICATION

I _____ do hereby certify that I am the occupier of three or more acres of land located in _____ township in the _____ soil conservation district and that I have not previously voted in this referendum or election.

Witness _____ Signed _____
(Name) (Name)

The polling officers, after determining that an applicant to vote is eligible and has not previously cast an absentee ballot, will deliver to him an official ballot or ballots and shall proceed at once to enter the eligible voter's name, location, and acreage of land owned or occupied in the proper place on the original and duplicate of the form to be known as the "poll list." Said list shall provide, in addition to the above, a column for "Notation." After the ballot or ballots have been marked by the voter, they shall be folded by him and dropped into the ballot box. Any voter who shall by accident or mistake spoil his ballot may, on returning the spoiled ballot, receive another in place thereof. The spoiled ballot shall be publicly destroyed and the fact of such destruction and reason therefor noted in the poll list in the column marked "Notations." Any voter who has received an absentee ballot may cast his vote in person upon surrendering such ballot to an election officer on the day of the referendum or election. The absentee ballot so surrendered shall be publicly destroyed and the fact of such destruction and reason therefor noted upon the list of absentee voters in the column marked "Notations."

(3) Upon the request of an eligible voter for assistance in marking his ballot, the polling board shall designate 2 disinterested persons to assist him.

(4) Immediately after the name of the last voter has been entered on the poll list, the polling officers shall on the last line of the poll list write the following words: "We certify the referendum (or election) completed with the voting of _____." The poll list will then be signed by all members of the polling board.

History: 1944 ACS 8, p. 26; 1954 AC, p. 1403.

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R 282.8 Counting votes; certificate of result.

Rule 8. (1) Upon completion of the voting, the polling officers shall open the ballot boxes and commence counting the votes; and in no case shall the ballot boxes be out of the custody of at least 2 polling officers until all the ballots have been counted. The counting of ballots shall in all cases be public. The ballots shall be taken out 1 at a time by a polling officer, who shall open them and read aloud the names of the candidates voted for. The other polling officer shall keep the number of votes by tallies as they are read aloud. The counting of votes shall be continued without adjournment until all have been counted. No ballot shall be rejected because of illegibility if, in the opinion of the majority of the polling board, the intention of the voter can be ascertained therefrom. Tie votes affecting the election results shall be decided by lot in public under the direction of a majority of the polling officials. Whenever such action is necessary, the method for deciding the tie vote and the name of the winning candidate shall be recorded on the certificate of election results.

(2) As soon as all the votes are read off and counted, a certificate shall be drawn upon each of the poll lists and tally sheets stating the number of votes each proposition or candidate has received, which number shall be written in figures and in words at full length. Each certificate shall be signed by all the polling officers. Where directors' election and referendum are held at the same time, separate tally sheets for each proposition shall be prepared.

History: 1944 ACS 8, p. 27; 1944 ACS 11, p. 70; 1954 AC, p. 1404.

R 282.9 Disposition of records; returns to state committee.

Rule 9. (1) The ballots shall be strung upon a cord or thread, by the inspector or judge, during the counting thereof, in the order in which they are entered upon the tally sheets by the other election officers. The counted ballots shall be separately wrapped and sealed, and together with the registration cards, original poll lists, tally sheet, and all unused official ballots securely wrapped and sealed by a polling official in the presence of the other polling officials and endorsed "election (referendum) returns of (Name of district) _____ district, _____ polling place," and be delivered to the polling superintendent in the manner and at the time he shall direct. Since in the organization of a new district, the referendum and the directors' election are held at the same time, the ballots and balloting material for the referendum shall be wrapped in 1 package and the ballots and the balloting material for directors shall be wrapped in another package.

(2) It shall be the duty of the polling superintendent, as soon as practicable, but not more than 5 days after the returns have been completed, to collect from the various polling boards the returns therefrom and immediately deliver such returns and excess supplies to the state committee.

(3) The duplicate poll list, tally sheets, and list of absentee voters shall be retained by the polling superintendent and preserved by him at least 6 months.

History: 1944 ACS 8, p. 27; 1954 AC, p. 1405.

R 282.10 Canvass by state committee.

Rule 10. (1) The original poll list, tally sheet, and list of absentee voters shall be permanently filed in the office of the state committee, together with the other papers pertaining to the district. The ballots and registration cards shall be kept unopened by the committee for at least 6 months after returns have been canvassed and certified by the state committee, after which period they may be destroyed; provided that, if any person be of the opinion that the vote of the

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referendum or election has not been correctly counted, or has been conducted in such a manner as to render the referendum or election invalid, he may appear on the day appointed to open and canvass the returns and demand a recount of the vote, or present evidence of such improper conduct. The committee may consider such evidence on that day or fix a time and place at which it will be considered.

(2) The state committee shall canvass the returns of the votes cast thereat within 10 days after each referendum or election. If, at the time of meeting, the returns from each division have not been received, the canvass must be postponed from day to day until all the returns have been received. The canvass must be made in public and by opening the returns and adding the total vote as shown thereon for each proposition or candidate voted for, and declaring the result thereof. The state committee shall, as soon as the result is ascertained, cause notice thereof to be published, and at that meeting of the state committee a statement of the result of the referendum or election shall be entered in the records of the committee.

(3) No poll list, tally sheet, or certificate returned from any referendum shall be set aside or rejected for want of form if it can be satisfactorily understood.

(4) A director's term of office shall begin after he is duly elected and as soon as he shall take and subscribe to the constitutional oath of office, which oath shall be filed with the secretary of the state soil conservation committee.

History: 1944 ACS 8, p. 27; 1944 ACS 11, p. 70; 1954 AC, p. 1405; 1954 ACS 21, p. 5, Eff. Feb. 13, 1960.

R 282.11 Instructions to election officers.

Rule 11. The committee shall cause instructions embodying the pertinent portions of these regulations, and such other instructions as it shall deem necessary, to be printed or otherwise duplicated for the use of the election officials in the conduct of referenda or elections.

History: 1944 ACS 8, p. 28; 1954 AC, p. 1405.

ELECTION OF DIRECTORS AT SOIL CONSERVATION DISTRICT ANNUAL MEETINGS

(By authority of section 7 of Act No. 297 of the Public Acts of 1937, as amended, being §282.7 et seq. of the Michigan Compiled Laws)

R 282.21a Act provisions.

Rule 1a. (1) The soil conservation district act provides that after the first governing body of a district is organized that, "thereafter, all directors shall be elected at an annual meeting of the land occupiers of the district. The annual meeting shall be held within 30 days following the close of the fiscal year of the district. The fiscal year of the district shall be determined by the board of directors of the district."

(2) In accordance with the above stated statute, the state committee has approved the following 3 methods for conducting directors' elections at district annual meetings. A district must use 1 of the following 3 methods.

History: 1944 ACS 8, p. 29; 1954 AC, p. 1406.

R 282.21b Method No. 1. Preparation for election.

Rule 1b. (1) Each district board of directors shall give widespread announcement of the annual meeting and directors' election. This may be done by (a) legal advertising, (b) direct mail, (c) news stories, (d) radio, (e) classified ads, or any

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other method or methods that will direct attention of land occupiers to the annual meeting and election.

(2) At least 1 month prior to the annual meeting and directors' election, the district directors shall appoint a nominating committee of 5 men who are cooperators of the district, but none of whom are district directors. This nominating committee shall meet, elect a chairman and nominate at least 2 candidates for each directors' office to be filled. This committee shall then report to the district directors.

(3) The district directors shall prepare ballots for the election. The ballots may be either mimeographed or printed. The candidates' names shall appear on the ballot in alphabetical order by surnames. The ballot shall have the following form:

DIRECTORS' ELECTION

_____ Soil Conservation District

Date _____

Vote for _____ directors
(number)

- ☐ John Doe
- ☐ Richard Roe
- ☐ _____etc.

(4) One or more blank spaces shall be left on each ballot to provide voting space for nominations made at the meeting.

(5) The nominating committee may serve as polling officials and the chairman of the nominating committee may serve as polling superintendent.

(6) At the annual meeting, the polling superintendent as election chairman, or the chairman of the board of directors, shall take charge of the election. Voters' registration cards and a ballot shall be distributed to each land occupier present. The registration card shall follow the form suggested on the attached page.

(7) The election chairman shall ask for and accept additional nominations from the floor. He shall ask for additional nominations before the ballots have been distributed. If additional nominations are made, he shall instruct the voters to add names of such nominees to the ballot.

(8) The polling officials shall collect the completed registration card and the folded completed ballot from each eligible voter wishing to vote. Any voter who shall by accident or mistake spoil his ballot may, on returning the spoiled ballot, receive another in place thereof. The spoiled ballot shall be publicly destroyed. The voter shall fold his completed ballot and place it in a ballot box provided by the district directors.

(9) Upon the request of an eligible voter for assistance in marking his ballot, the polling board shall designate 2 disinterested persons to assist him.

History: 1944 ACS 8, p. 29; 1954 AC, p. 1406.

R 282.22 Method No. 2. Preparation for election.

Rule 2. (1) Each district board of directors shall give widespread announcement of the annual meeting and directors' election. This may be done by (a) legal advertising, (b) direct mail, (c) news stories, (d) radio, (e) classified ads, or any other method or methods that will direct attention of land occupiers to the annual meeting and election.

(2) Each district board of directors shall provide a large blackboard, a supply of pencils, sufficient slips of paper for nominations, ballot boxes, and 2 large manila envelopes in which completed ballots, registration cards, and unused supplies may be placed and sealed.

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(3) Each district board of directors shall prepare ballots for the election. The ballots may be printed or mimeographed and shall have the following form:

DIRECTORS' ELECTION

_____ Soil Conservation District
(Name)

Date _____

Vote for _____ directors
(number)

1. _____

2. _____

(etc.)

(4) The district chairman shall take charge of the meeting to obtain nominations for directors.

(5) The chairman shall inform the assembled group as to the directors' offices to be filled and of the nomination and election procedure as determined by the state committee.

(6) The chairman shall appoint 3 or more land occupiers as polling officials, none of whom shall be candidates for office. If 1 or more polling officials are nominated for directors, the district chairman shall immediately appoint replacements.

(7) Every land occupier shall satisfy the election officials as to his eligibility to make nominations and to vote by his certification on the official voter's registration and qualification form, substantially as illustrated on the attached page. A registration card shall be distributed to each land occupier. Sufficient time shall be allotted for each land occupier to fill out card. He shall retain this card until he surrenders it for a final ballot.

(8) The chairman shall call for nominations by slip. Land occupiers who wish to make nominations shall write their nominations on a slip of paper and fold the paper. The slips shall be distributed and collected by the polling officials. Each land occupier shall have the right to make as many nominations as there are directors to be elected.

(9) If more than 10 nominations are made, the 10 names receiving the largest number of nominations shall be the candidates for election. If a tie exists between the tenth and eleventh candidates, both names shall be included in the list of candidates.

(10) Nominations thus made shall be plainly written on a blackboard in alphabetical order by surnames with the township name in which that nominee resides written opposite each name.

(11) This blackboard with nominations shall be placed in a location where it can be seen by all voters.

(12) The polling officers, after determining that an applicant to vote is eligible, shall collect his registration card and deliver to him an official ballot. Any voter who shall by accident or mistake spoil his ballot may, on returning the spoiled ballot, receive another in place thereof. The spoiled ballot shall be publicly destroyed. The voter shall fold his completed ballot and place it in a ballot box provided by the district directors.

(13) Upon the request of an eligible voter for assistance in marking his ballot, the polling board shall designate 2 disinterested persons to assist him.

History: 1944 ACS 8, p. 29; 1954 AC, p. 1407.

R 282.23 Method No. 3. Preparation for election.

Rule 3. (1) Each district board of directors shall give widespread announcement of the annual meeting and directors' election. This may be done by (a) legal

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advertising, (b) direct mail, (c) news stories, (d) radio, (e) classified ads, or any other method or methods that will direct attention of land occupiers to the annual meeting and election.

(2) Each district shall provide a large blackboard, a supply of pencils, ballot boxes, and 2 large manila envelopes in which ballots, registration cards, and unused supplies may be placed and sealed.

(3) Each district shall prepare ballots for the election. The ballots, printed or mimeographed, shall have the following form:

DIRECTORS' ELECTION

_____ Soil Conservation District
(Name)

Date _____

Vote for _____ directors
(number)

1. _____

2. _____
(etc.)

(4) The district directors shall take charge of the election procedure.

(5) The district chairman shall inform the meeting as to the nomination and election procedure. Only land occupiers as defined by the districts' law shall be eligible to make nominations and to vote.

(6) Nominations shall be made orally from the floor. However, no motion to close nominations shall be in order until there are at least 2 nominees for each position to be filled.

(7) Each land occupier shall have the right to make as many nominations as there are positions to be filled.

(8) Nominations thus made shall be plainly written on a blackboard with the township name in which that nominee resides.

(9) The blackboard with nominations shall be placed in a location where it can be seen by all voters.

(10) The chairman shall appoint at least 3 polling officials to facilitate distribution, collection, and counting of ballots.

(11) The polling officials shall distribute a registration card and a ballot to each land occupier of 3 or more acres. The ballots shall then be completed, folded, and collected in a ballot box along with the completed registration card. Any voter who shall by accident or mistake spoil his ballot may, on returning the spoiled ballot, receive another in place thereof. The spoiled ballot shall be publicly destroyed.

(12) Upon the request of an eligible voter for assistance in marking his ballot, the polling board shall designate 2 disinterested persons to assist him.

History: 1944 ACS 8, p. 30; 1954 AC, p. 1408.

R 282.24 Procedure.

Rule 4. The following procedure is a part of each of the above 3 methods:

(a) At least 30 days prior to the annual meeting and directors' election, the board of directors of each district shall inform the state committee as to the date, time, and place of its annual meeting and of the method to be used for electing directors.

(b) A "land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands 3 acres or more in extent lying within a district organized under the provisions of the district

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act whether as owner, lessee, renter, tenant, or otherwise. This includes the land owner and his wife if property is jointly owned, tenant, and tenant's wife if they are joint tenants or tenants in common, a representative of a firm or corporation providing such representative shall hold authorization in writing of his power to act for such firm or corporation. A son of a father and son partnership may also vote providing he is of legal age.

(c) Upon completion of the voting, the polling officers shall open the ballot boxes and commence counting the votes; and in no case shall the ballot boxes be out of the custody of at least 2 polling officers until all the ballots have been counted. The counting of ballots shall in all cases be public. The ballots shall be taken out 1 at a time by a polling officer, who shall open them and read aloud the names of the candidates voted for. The other polling officer shall keep the number of votes by tallies as they are read aloud. The counting of votes shall be continued without adjournment until all have been counted. No ballot shall be rejected because of illegibility if, in the opinion of the majority of the polling board, the intention of the voter can be ascertained therefrom. The nominee or nominees receiving the most votes shall be declared elected.

(d) As soon as all votes are read off and counted, 2 certificates of results shall be prepared stating the number of votes each candidate received, which number shall be written in figures (10) and in words (ten) at full length. Each certificate shall be signed by all polling officers.

(e) Districts organized prior to September 6, 1945, will have all directors come up for re-election or replacement at their first annual meeting. The 2 nominees receiving the most votes shall be elected for 3 years, the next 2 highest for 2 years, and the fifth one for 1 year. Thereafter, as terms expire and elections are held, successful candidates shall be elected for 3 years.

(f) It shall be the duty of the district chairman, as soon as practicable after the election returns have been completed, to deliver to the state soil conservation committee, 1 completed copy of the certificate of election results.

(g) It shall be the duty of the district chairman, as soon as practicable after the election returns have been completed, to seal the election ballots and the registration cards and to retain them in the district files for at least 6 months, after which they may be destroyed, except that during this 6 months' period, it shall be his duty to surrender the ballots and the registration cards unopened to the state soil conservation committee upon its request.

(h) The duplicate certificate of voting results shall be permanently retained by the district directors in the district files.

(i) The certificate of voting results shall be permanently filed in the office of the state committee, together with the other papers pertaining to the district. If, during a 6 months' period following the directors' election, any person be of the opinion that the vote of the election has not been correctly counted, or has been conducted in such a manner as to render the election invalid, he may appear on the day appointed to canvass the returns and demand a recount of the vote, or present evidence of such improper conduct. The committee may consider such evidence on that day or fix a time and place at which it will be considered.

(j) A statement of the election results shall be entered in the permanent records of the committee.

(k) No certificate returned from any election shall be set aside or rejected for want of form if it can be satisfactorily understood.

(Suggested form for legal advertising if district wishes to use such advertising for annual meeting and directors' election)

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LEGAL ADVERTISING

Notice of Annual Meeting and Election of Directors

_____ Soil Conservation District

To all occupiers of lands lying within the boundaries of the _____ soil conservation district, notice is hereby given that on the _____ (day) of _____ (month), _____ (year), between the hours of _____ and _____, in the _____ (building) at _____ (town), an annual meeting and a directors' election will be held.

All occupiers of land who hold title to or are in possession of three or more acres of any lands lying within the district are eligible to attend and to participate in the directors' election. A "land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands three acres or more in extent lying within a district organized under the provisions of the districts act whether as owner, lessee, renter, tenant, or otherwise.

_____ (Board of Directors), Chairman

_____ Soil Conservation District

VOTER'S
REGISTRATION AND QUALIFICATION

I _____ do hereby certify that I am the owner or occupier of three or more acres of land located in _____ township in the _____ soil conservation district.

Signed _____ (Name)

Date _____

(Copies of this registration blank may be obtained from the state committee or they may be mimeographed or printed locally).

CERTIFICATE OF DIRECTORS' ELECTION RESULTS

_____ Soil Conservation District

Date _____, 19__

Place of Election _____

Number of Directors to be elected _____

We do hereby certify that the following individuals were nominated for director or directors of the _____ soil conservation district and that each nominee received the indicated number of votes:

Name	Mailing Address	Votes Received
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

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We further certify that there were _____ of ballots cast in the election.
(number)

There were _____ void ballots.
(number)

Signed _____

_____

_____
(Polling officials)

(Make 2 copies—1 for state soil conservation committee and 1 for district files.)

History: 1944 ACS 8, p. 31; 1944 ACS 18, p. 65; 1954 AC, p. 1409; 1954 ACS 21, p. 5. Eff. Feb. 13, 1960.

HEARING SCHEDULE

(By authority of Act No. 197 of the Public Acts of 1952, as amended, and Act No. 297 of the Public Acts of 1937, as amended, being §24.101 et seq. and §282.1 et seq. of the Michigan Compiled Laws)

R 282.51 Notice of hearing.

Rule 1. Notification of any hearing before the Michigan state soil conservation committee will be by notice published in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, in accordance with the provisions of Act No. 297 of the Public Acts of 1937, as amended. Such hearings shall be held at a suitable location as may be determined in the wise discretion of the committee.

History: 1954 ACS 25, p. 28, Eff. Feb. 14, 1961.

R 282.52 Appearance.

Rule 2. When an appearance is made at a hearing, it may be made either in person or by a duly authorized representative.

History: 1954 ACS 25, p. 28, Eff. Feb. 14, 1961.

R 282.53 Answer or brief; service.

Rule 3. Any interested party may, at his option, file a written answer or brief with the committee, prior to the date set for hearing, or at the hearing may appear and present an oral statement. When written answers or briefs are presented, a copy shall be served upon the state soil conservation committee through its executive secretary at least 5 days prior to the date set for the hearing.

History: 1954 ACS 25, p. 28, Eff. Feb. 14, 1961.

EXECUTIVE DIVISION

REGULATION NO. 50. WEATHER MODIFICATION CONTROL

(By authority conferred on the department of agriculture by section 4 of Act No. 279 of the Public Acts of 1978, being §295.104 of the Michigan Compiled Laws)

R 285.50.1 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 279 of the Public Acts of 1978, being §295.101 et seq. of the Michigan Compiled Laws and known as the weather modification control act.

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(b) "Managing agent" means an individual who shall be designated on the application, who shall directly supervise the weather modification activity in Michigan or conduct the weather modification activity in Michigan, or do both, and who shall be contacted in the event of emergency permit modification or suspension. The managing agent may be the applicant.

(c) "Operational area" means a geographic area and the atmosphere above the area in which a person or persons place or attempt to place any substance in the atmosphere or clouds within the atmosphere for the purpose of producing or attempting to produce a certain weather modification, and also means the geographic area and the atmosphere above which the weather is intended to be modified.

(d) "Permit" means an operational permit issued by the director indicating that approval has been given for conducting a specified weather modification operation within the state, subject to the conditions and within the limitations established under the act and these rules.

(e) "Permittee" means a person who holds an operational permit issued under the act and these rules.

(f) "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, any state or local government or an agency thereof, or any other organization, whether commercial or nonprofit, who is performing weather modification operations or research and development.

(g) "Project office" means the Michigan office of the person conducting weather modification activities in Michigan.

(h) "Time interval" is that specified in the project description portion of the application, or, if the operation is performed under contract, the effective starting and ending dates of the contract shall apply.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 100, p. 71, Eff. Aug. 17, 1979.

R 285.50.2 Application for permit.

Rule 2. (1) An application for a permit shall be made under oath on forms provided by the department. The application shall contain all of the following:

(a) Name, business address, and phone number of the applicant.

(b) A list of states in which the applicant is currently licensed.

(c) Name, address, and phone number of the applicant's managing agent if this individual is different from the applicant.

(d) If applicable, a list of states in which the managing agent is currently licensed.

(e) Project office address and phone number.

(f) Name and address of the person on whose behalf the operation is to be conducted.

(g) Appropriate documentation to reasonably establish that the managing agent meets at least 1 of the following:

(i) Has had not less than 4 years of professional experience in weather modification field research or activities, and has served for not less than 2 years as a project director of weather modification activities.

(ii) Has obtained a baccalaureate degree from a recognized institution of higher education in engineering, mathematics, or the physical sciences, and has had not less than 2 years of experience in weather modification field research or activities.

(iii) Has obtained a baccalaureate degree from a recognized institution of higher education in engineering, mathematics, or the physical sciences, and has

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satisfactorily completed the equivalent of not less than 25 semester hours of meteorological studies at a recognized institution of higher education.

(h) A description of the method to be used in placing any modifying substance or substances into the atmosphere or clouds within the atmosphere.

(i) A demonstration that the managing agent, by his or her knowledge of meteorology, cloud physics, and field experience, has the qualifications to conduct a weather modification operation using the method by which the applicant plans to place the substance or substances into the atmosphere or clouds within the atmosphere.

(j) A complete operational plan for the project, including all of the following:

(i) A specific statement of the nature, object, and probable impact of the operation.

(ii) A map of the proposed operating area that specifies the primary target area and shows the area reasonably expected to be affected.

(iii) A statement of the approximate time in which the operation is to be conducted.

(iv) A list of the materials and methods to be used in conducting the operation.

(v) An emergency shutdown procedure which states conditions under which operations shall be suspended because of possible danger to the public health, safety, welfare, or the environment.

(vi) Other detailed information as may be required to describe the operation.

(k) A list of all pending or closed court or administrative agency adversary proceedings in which the applicant is involved.

(l) Other information deemed necessary and relevant by the director.

(2) An application shall be accompanied by all the following:

(a) A fee of $100.00 or 1% of either the total cost of the weather modification operation or the contracted value, whichever is larger.

(b) A completed form for publication of notice of intent to engage in weather modification activities pursuant to section 12 of the act.

(c) Proof of financial responsibility pursuant to section 18 of the act.

(d) A copy of all contractual agreements, including all financial agreements, relating to the operation.

(e) A statement provided by the applicant describing the potential environmental impacts of the proposed action as required by the state's mandated environmental review process.

History: 1954 ACS 100, p. 71, Eff. Aug. 17, 1979.

R 285.50.3 Public notice.

Rule 3. The applicant shall cause to be published a notice of intent to engage in weather modification activities pursuant to the requirements of section 12 of the act.

History: 1954 ACS 100, p. 72, Eff. Aug. 17, 1979.

R 285.50.4 Permit modifications; project boundary modification.

Rule 4. (1) The director may place or amend conditions and restrictions on any permit at any time if necessary to protect the environment or the public health, welfare, or safety. Any revision in an existing permit shall be made pursuant to sections 6 and 19 of the act and R 285.50.12.

(2) Before a permittee may modify the boundaries of a project for which a permit has previously been obtained, the permittee shall make application to the director and shall meet the requirements set forth in the act and these rules as regards an original permit.

History: 1954 ACS 100, p. 72, Eff. Aug. 17, 1979.

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R 285.50.5 Managing agent change; notice; requirements for replacement.

Rule 5. The permittee shall notify the director of a change in the managing agent. The replacement managing agent shall meet the requirements set forth in the act and these rules for a managing agent.

History: 1954 ACS 100, p. 72, Eff. Aug. 17, 1979.

R 285.50.6 Duration of permit; assignment or transfer of permit prohibited.

Rule 6. (1) A permit shall be valid for 1 year from the date of issuance or upon the completion of the contract as filed with the permit application, whichever is earlier.

(2) A permit shall not be assigned or transferred by the holder.

History: 1954 ACS 100, p. 72, Eff. Aug. 17, 1979.

R 285.50.7 Renewal of permit.

Rule 7. A permit shall be renewed by the director if all of the following conditions are met:

(a) Receipt of a request for renewal by the permittee, including any changes from the original permit.

(b) Receipt of the permit fee.

(c) The permittee meets all of the requirements necessary for issuance of an original permit.

(d) A review by the department of the permittee's operational records and reports demonstrates that any previous permits have been adhered to.

(e) The permittee has not violated the act or a rule promulgated under the act.

History: 1954 ACS 100, p. 73, Eff. Aug. 17, 1979.

R 285.50.8 Suspension and revocation of permit.

Rule 8. The director may suspend or revoke a permit in any of the following situations:

(a) The permittee no longer has the qualifications necessary for the issuance of an original permit.

(b) The permittee has failed to comply with R 285.50.12(2)(c).

(c) The permittee has violated the act or any of the rules promulgated under the act.

History: 1954 ACS 100, p. 73, Eff. Aug. 17, 1979.

R 285.50.9 Restoration of permits.

Rule 9. (1) At any time after the suspension or revocation of a permit, the director may restore the permit to the permittee after determining that the requirements for issuance of an original permit have been met and that there is sufficient reason to believe that the requirements shall continue to be met by the permittee.

(2) At any time after the refusal to renew a permit, the director may renew it upon a finding that the requirements for issuance of an original permit have been met and shall continue to be met by the permittee.

History: 1954 ACS 100, p. 73, Eff. Aug. 17, 1979.

R 285.50.10 Refusal to renew or restore permits.

Rule 10. (1) A permit renewal or restoration shall be denied if the department determines that an original permit would not have been issued, taking into account information obtained during the past year. A renewal or restoration may

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be denied if the permittee has violated the act or a rule promulgated pursuant to the act.

(2) A permit renewal or restoration may be denied if the department determines that the permittee has shown incompetency, dishonest practice, false or fraudulent representation in obtaining a permit under the act, or has aided other persons to violate the act or the rules of the department promulgated under the act.

History: 1954 ACS 100, p. 73, Eff. Aug. 17, 1979.

R 285.50.11 Reports.

Rule 11. A person engaged in weather modification shall do all of the following:

(a) Maintain at his or her project office a current (within 24 hours) log of all operations. This log shall be available for inspection during normal working hours or at other reasonable hours by persons authorized by the director. The log shall include all of the following information:

(i) Date of the operation.

(ii) Methods and type of equipment employed.

(iii) Location of the operation, including flight tracks if applicable.

(iv) Type, rate, and amount of artificial cloud seeding material used.

(v) Time period during which each weather modification device was activated.

(vi) Total hours of operation of each unit of equipment.

(vii) Criteria used to determine when and where there was modifiable weather.

(viii) The times when there was modifiable weather but the permittee did not operate and the reasons therefor.

(ix) Other information deemed necessary and relevant by the director.

(b) File the following reports with the director:

(i) Monthly reports of weather modification activities. Such reports shall be filed no later than the fifteenth day of the following month and shall contain a tabulation and summary of the daily operational logs for the preceding month.

(ii) Preliminary report within 30 days after the end of each calendar year or within 30 days after the end of an operation, whichever occurs first, and a final report on the operation not later than 90 days thereafter. Such reports shall contain all of the following information:

(A) Name, business address, and phone number of the permittee.

(B) Name, project office address, and phone number of the managing agent if different from the permittee.

(C) Information regarding the managing agent's qualifications for performing the operation.

(D) Scope of the operation as set forth in the permit application and in compliance with R 285.50.2(1)(j).

(E) Name and address of each individual, other than those listed above, who participated or assisted in the operation.

(F) Total number of days on which operations were conducted.

(G) Total number of seeding or weather modification missions attempted and completed.

(H) Total number of hours each type of weather modification equipment operated.

(I) Total amount of each seeding agent used.

(J) Any identifiable environmental or public health, welfare, or safety impact caused by the operation.

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(K) The manner in which operations did not conform to the conditions and limits of the permit as originally established or subsequently modified and the reasons therefor.

(L) An evaluation as to the effectiveness of the activities. Pursuant to section 9(2) of the act, an evaluation by an independent research organization is both encouraged and highly recommended. Such an independent evaluation may be used for fulfilling this requirement.

(M) Other information deemed necessary and relevant by the director.

History: 1954 ACS 100, p. 73, Eff. Aug. 17, 1979.

R 285.50.12 Safety standards and emergency shutdown procedures.

Rule 12. (1) To protect the public health, safety, welfare, and the environment, all of the following provisions shall be complied with:

(a) Weather modification operations for precipitation enhancement shall not be conducted during periods when the national weather service has issued a severe storm watch for the operational area.

(b) Severe storm mitigation operations shall be carried out in a safe manner consistent with the state of the weather modification technology.

(c) Weather modification research and development projects shall be conducted according to scientifically and meteorologically sound methods and in operational areas that minimize potential hazards to the public health, safety, welfare, and the environment.

(2) If it appears to the department that an emergency situation exists or is impending which could endanger the public health, safety, welfare, or the environment, the director may, without prior notice or a hearing, immediately modify the conditions and limits of a permit or order temporary suspension of the permit.

(a) The order shall be issued to the managing agent. If the managing agent is other than the permittee, a duplicate copy shall be delivered to the permittee at his official business address stated on the permit application.

(b) The issuance of the order shall include notice of a hearing to be held within 10 days thereafter on the question of permanently modifying the conditions and limits or continuing the suspension of the permit.

(c) Failure to comply with an order temporarily suspending an operation or modifying the conditions and limits of a permit shall be grounds for immediate revocation of the permit of the person controlling the operation.

(3) The permittee shall notify the department of any emergency that can reasonably be foreseen or of any existing emergency situations that may be caused or affected by the operation. Failure by the permittee to notify the department of an existing emergency or an impending emergency which should have been foreseen may be grounds, at the discretion of the director, for revocation of the permit of the person controlling the operation. A wanton or wilful failure to notify the department shall be grounds for revocation of the permit of the person controlling the operation.

History: 1954 ACS 100, p. 74, Eff. Aug. 17, 1979.

ANIMAL HEALTH DIVISION

(By authority of Act No. 181 of the Public Acts of 1919, as amended, being §287.2 et seq. of the Michigan Compiled Laws)

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REGULATION NO. 100. PAYMENT OF INDEMNITIES

R 285.100.1 Payment of indemnities on purebred cattle slaughtered on account of tuberculosis or brucellosis.

Rule 1. (1) Animals which are 3 years old or more must be registered prior to [illegible] reaction to be appraised as purebred animals, otherwise indemnity will be paid on grade basis. Animals under 3 years of age and eligible to registry which react to the test are entitled to appraisal as purebreds and indemnity will be paid on purebred basis, provided that registration is completed as required by law.

(2) In paying indemnities, only cattle recorded in the following named registry associations will be recognized as registered animals:

American Aberdeen Angus Breeders' Association
American Devon Cattle Club
American Galloway Breeders' Association
American Guernsey Cattle Club
American Hereford Association
American Jersey Cattle Club
American Kerry and Dexter Cattle Club
American Polled Hereford Breeders' Association
American Shorthorn Breeders' Association
Ayrshire Breeders' Association
Brown Swiss Cattle Breeders' Association
Dutch Belted Cattle Association of America
Holstein Friesian Association of America
Polled Shorthorn Breeders' Association
Red Polled Cattle Club of America
American Brahman Breeders' Association
International Brangus Breeders' Association
American Charbray Breeders' Association
American International Charolais Association
American Belted Galloway Cattle Breeders' Association
American Scotch Highland Breeders' Association
Pan American Zebu Association
Red Angus Association of America
Santa Gertrudis Breeders' International
American Red Danish Cattle Association
American Milking Shorthorn Society

History: 1944 AC, p. 32; 1954 AC, p. 1501; 1954 ACS 31, p. 5, Eff. Aug. 14, 1962.

REGULATION NO. 101. PREVENTION OF SPREAD OF BOVINE TUBERCULOSIS OR BRUCELLOSIS

R 285.101.1 Preventing spread of bovine tuberculosis or brucellosis.

Rule 1. (1) Cattle which have reacted to the tuberculin test or brucellosis test shall not be shipped or transported in cars or other vehicles containing healthy cattle unless all of the animals are for immediate slaughter, or unless the tuberculous cattle or brucellosis cattle are separated from the other animals by a solid partition which shall be securely affixed to the walls of the car or vehicle.

(2) Cattle arriving at terminal public stockyards in this state in cars or other vehicles containing reacting cattle which are not properly segregated by a partition as above mentioned shall be so handled and yarded as to permit of their disposition for immediate slaughter only.

History: 1944 AC, p. 33; 1954 AC, p. 1501; 1954 ACS 31, p. 5, Eff. Aug. 14, 1962.

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REGULATION NO. 102. TUBERCULIN TESTING AND CONTROL OF TUBERCULOSIS

R 285.102.1 Tuberculin testing; control of tuberculosis of livestock.

Rule 1. (1) The standard tuberculin test or tests as approved and used under the direction of the state and federal government, and applied by a veterinarian approved by the commissioner of agriculture, shall be the recognized method of diagnosis of tuberculosis of livestock.

(2) Any veterinarian to be approved for tuberculin testing within the state shall have qualified and passed the federal examination as applied to testing under the accredited herd plan and shall conform to the Michigan state law and federal rules and regulations relating to tuberculin testing and handling, marking, and disposition of reactor animals.

(3) Record of a retest on any animal which has reacted to any standard tuberculin test approved by the federal and state authorities will not be accepted or approved.

(4) Payment of state indemnity will be refused on any reactors to the tuberculin test, unless the test shall have been conducted by an approved veterinarian.

(5) Any animal which has reacted to the tuberculin test shall be kept separate from nonreacting animals. Payment of state indemnity will be refused on reactor cattle which are not kept properly segregated from nonreactors.

(6) The milk products of a reactor shall not be sold for human consumption, nor shall the product be fed to animals unless sterilized before feeding. Any animal susceptible to tuberculosis allowed to run in contact with a reactor shall not be sold or disposed of, except for immediate slaughter subject to state or federal inspection at time of slaughter.

History: 1944 AC, p. 33; 1954 AC, p. 1501.

REGULATION NO. 103. TESTING OF CATTLE REMOVED FROM CENTRAL STOCKYARDS

R 285.103 Rescinded.

History: 1944 AC, p. 34; rescinded 1944 ACS 9, p. 31.

REGULATION NO. 104. ENTRY OF FEEDING CATTLE FROM MODIFIED ACCREDITED BOVINE TUBERCULOSIS FREE AREAS

R 285.104 Rescinded.

History: 1944 AC, p. 34; 1954 AC, p. 1502; rescinded 1954 ACS 31, p. 5, Eff. Aug. 14, 1962.

REGULATION NO. 105. TUBERCULIN TESTING

R 285.105 Rescinded.

History: 1944 AC, p. 34; 1954 AC, p. 1502; rescinded 1954 ACS 23, p. 5, Eff. Aug. 12, 1960.

REGULATION NO. 106. HOG CHOLERA

R 285.106 Rescinded.

History: 1944 AC, p. 35; 1954 AC, p. 1502; rescinded 1954 ACS 31, p. 5, Eff. Aug. 14, 1962.

REGULATION NO. 107. CONTAGIOUS AND INFECTIOUS DISEASES IN POULTRY

R 285.107.1 Prevention and suppression of contagious and infectious diseases in poultry.

Rule 1. (1) If tuberculous fowl are found in any flock, the entire flock shall be considered as infected.

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(2) All owners of tuberculous poultry shall handle and dispose of their flocks in conformity with the regulations or directions of the commissioner of agriculture.

(3) All thin, emaciated fowls showing signs of tuberculosis shall be killed and burned.

(4) When the infection is found in any flock after August 1 and before January 1 of the following year, the remainder of such infected flock may be kept for egg production until August 1 of that year. When the infection is found between January 1 and August 1, only fowls less than 1 year of age may be kept until the following August 1, but must be kept away from all farm animals until marketed for slaughter. No eggs from such flock shall be sold for or used for hatching purposes.

(5) Poultry houses and yards must be thoroughly cleaned and disinfected as soon as the diseased flock is disposed of. A new flock should be reared from young chicks, upon clean ground, each year until it is determined that the flock is free from tubercular infection.

(6) In case of valuable purebred flocks, an arrangement may be made with the commissioner of agriculture for freeing the flock of infection through the use of the tuberculin test. All fowls reacting to the tuberculin test must be slaughtered and disposed of under competent post mortem inspection.

(7) No fowls are to be disposed of from infected flocks except for slaughter.

History: 1944 AC, p. 35; 1954 AC, p. 1503.

REGULATION NO. 108. IMPORTATION OF LIVESTOCK FOR SLAUGHTER

R 285.108 Rescinded.

History: Rescinded 1944 ACS 9, p. 29.

REGULATION NO. 109. INTRASTATE MOVEMENT OF SWINE

R 285.109.1 Intrastate movement of swine.

Rule 1. (1) Classes of swine prohibited intrastate movement:

(a) Any person owning, in charge of, or having in his possession swine affected with hog cholera, or which have been immediately exposed to the disease, shall not sell, move, or allow such infected or exposed swine to drift, or be transported, trailed, driven, or otherwise moved in this state for any purpose.

(b) Public stockyards and slaughter house and garbage feeding premises shall be considered infected premises, and no swine shall be sold, or disposed of, or allowed to move therefrom within this state (intrastate) except for immediate slaughter, except as hereinafter provided and upon a written permit from the state commissioner of agriculture, or his authorized representative.

(2) Swine, to be used for purposes other than immediate slaughter, may be shipped, transported, or otherwise moved in this state from public stockyards where state or federal inspection is regularly maintained, provided the following conditions are complied with and permission has been granted by the state commissioner of agriculture to establish this practice at public stockyards:

(a) It shall be necessary, before exercising the provisions of this rule as hereinafter stated governing the removal of swine from public stockyards for purposes other than immediate slaughter, for those in charge of said yards to make application to the state department of agriculture. Upon receipt of such application, the commissioner will cause an inspection to be made of such stockyards to ascertain whether or not proper facilities can be provided under this regulation, and also to give such instructions as will insure the strict observance of same.

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(b) The swine, if found free from cholera or any other contagious, infectious, or communicable disease, shall be treated by a veterinarian authorized by the state commissioner of agriculture in accordance with subrules (3), (4), (5), and (6) in a portion of the stockyard set aside for that purpose, such pen or portion of yard being at all times maintained in a clean and sanitary condition.

(3) Swine may be treated either by the injection of anti-hog cholera serum alone or the simultaneous injection of anti-hog cholera serum and hog cholera virus. After treatment, the swine shall be dipped in or sprayed with a 2% solution of compound cresol U.S.P., or other permitted substitute, under the supervision of the veterinarian who administers the treatment before being removed from the stockyards.

(4) Swine removed from a public stockyard for purposes other than immediate slaughter under the provisions of this rule shall be considered under quarantine for a period of 21 days, during which time they must not be allowed to come in contact with or endanger untreated hogs.

(5) The shipment or movement shall be accompanied by a certificate issued by the veterinarian making the treatment, 1 copy of which shall be forwarded immediately to the state department of agriculture, Lansing, Michigan. This certificate shall show that the provisions of this rule have been complied with, giving date, place of treatment, method used, number of swine treated, and destination of shipment.

(6) Swine removed from public stockyards in compliance with this rule shall be transported in clean and disinfected cars or other vehicles and, after spraying or dipping, must not come in contact with yards, pens, chutes, or ground not known to be free from hog cholera infection.

History: 1944 AC, p. 36; 1954 AC, p. 1503.

REGULATION NO. 110. IMPORTATION OF SWINE

R 285.110.1 Importation of swine into Michigan.

Rule 1. (1) No person, company, association, or agent shall import or move any swine into Michigan except in conformity with the requirements of this rule.

(2) An affidavit executed by the importer or his authorized agent shall be immediately furnished the Michigan bureau of animal industry on each shipment of swine imported into Michigan for immediate slaughter and a copy of such affidavit shall be in possession of the transportation company or the trucker or person in charge of the swine when brought into the state. The affidavit shall state the number of hogs in the shipment and the name and mailing address of the consignor and consignee and the destination of the shipment. Such swine shall be consigned and delivered only to a slaughterhouse where federal inspection is maintained or to a slaughterhouse approved by the Michigan bureau of animal industry to receive livestock for slaughter. Such swine, upon arrival at destination, shall be held at slaughterhouse in isolation from any hogs not used for immediate slaughter and shall be killed within 48 hours after arrival at destination.

(3) Purebred, registered swine shall be accompanied by a health certificate, a copy of which shall be immediately furnished the state veterinarian at Lansing. Such certificate shall be issued by a United States bureau of animal industry veterinary inspector or by a graduate veterinarian approved by the state veterinarian or chief livestock sanitary official at point of origin and shall show that the swine have been vaccinated against hog cholera within 21 days prior to importation by the serum-alone method or more than 21 days prior to importation by the serum-simultaneous method; provided that any swine handled in conformity with

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United States bureau of animal industry order No. 309, regulation 6, may be imported subject to 21-day quarantine at destination.

(4) No swine except those for immediate slaughter and purebred, registered swine as provided herein, and swine which are imported in conformity with United States bureau of animal industry order No. 309, regulation 6, shall be imported or brought into Michigan, except upon a permit issued by the state veterinarian of Michigan.

(5) Swine imported into Michigan shall be free from any contagious or infectious disease and shall be transported in disinfected cars or vehicles.

(6) All swine imported into Michigan, except those for immediate slaughter, shall be held in quarantine for a period of not less than 3 weeks after arrival at destination.

History: 1944 AC, p. 36; 1954 AC, p. 1504.

REGULATION NO. 111. IMPORTATION OF STEERS

R 285.111 Rescinded.

History: Rescinded 1944 ACS 9, p. 29.

REGULATION NO. 112. IMPORTATION OF DOGS

R 285.112.1 Importation of dogs into Michigan.

Rule 1. (1) Any dog imported into Michigan shall be accompanied by a certificate of health issued by a veterinarian legally qualified to practice in the state or province of origin of said dog, and a legible copy of such certificate, approved by the chief veterinarian of the state or province of origin, shall immediately be furnished the state veterinarian of Michigan. Such certificate must show that said dog is free from rabies or any communicable disease and has not been recently exposed to such disease. Name the breed, sex, and age, and state definitely the point of origin and destination of said dog and the name and post office address of the consignor and consignee, and, if vaccinated, the date on which the vaccine was administered.

(2) Any such dog for importation which originates within a radius of 50 miles of any point where rabies has been known to exist within a period of 6 months prior to shipment shall have been properly vaccinated with a killed antirabic vaccine within 6 months prior to date of importation. Any dog imported into the state which has originated within a radius of 50 miles of any point where rabies has existed within a period of 6 months prior to importation may, at the discretion of the commissioner of agriculture, be subject to quarantine at destination for a period of not less than 60 days following arrival within the state of Michigan.

(3) This rule shall not apply to any dog passing through this state to points beyond, nor to any dog within the state for temporary stay for exhibition purposes, when such dog is kept properly under control of the owner or custodian.

History: 1944 AC, p. 37; 1954 AC, p. 1504.

REGULATION NO. 113. QUARANTINE OF DOGS

R 285.113.1 Establishment, maintenance, and enforcement of quarantine on dogs.

Rule 1. (1) The commissioner of agriculture, or any person by him duly appointed or authorized to enforce the provisions of any quarantine on dogs in any district or portion of the state of Michigan, may in his discretion issue permits

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to the owner or owners of any dog or dogs under quarantine according to the provisions of Act No. 181 of the Public Acts of 1919, as amended, permitting the transfer of such dog or dogs from the district or portion of the state affected by such quarantine, to any other district or portion of the state by such owner or owners, and there kept under the restrictions and provisions of such quarantine during such time as such quarantine exists in the area from which such dog or dogs are removed, when, in the opinion of such person, the spread of any contagion or infection will not be occasioned thereby.

(2) Such permits for such removal shall contain the conditions and restrictions of such removal with respect to such quarantine, and shall be in writing and in form prescribed by the department of agriculture, and shall be signed by the person authorized to issue the same and by the owner or owners of said dog or dogs.

History: 1944 AC, p. 38; 1954 AC, p. 1505.

REGULATION NO. 114. CONTAGIOUS AND INFECTIOUS LIVESTOCK DISEASES

R 285.114.1 Preventing spread of contagious and infectious diseases among livestock.

Rule 1. It is hereby ordered by the state director of agriculture that all cars, trucks, or other vehicles which have been used to convey any domestic animals affected with a contagious or infectious disease from 1 point to another in the state of Michigan shall, before again being used, be thoroughly cleaned and disinfected with a disinfectant approved by Michigan department of agriculture.

History: 1944 AC, p. 38; 1954 AC, p. 1505; 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

REGULATION NO. 115. STATE ADVISORY AND VETERINARY BOARD

R 285.115 Rescinded.

History: 1944 AC, p. 38; 1954 AC, p. 1505; rescinded 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

REGULATION NO. 116. PUBLIC EXHIBITION OF LIVESTOCK AT FAIRS

R 285.116 Rescinded.

History: 1944 AC, p. 39; 1954 AC, p. 1506; 1954 ACS 31, p. 6, Eff. Aug. 14, 1962; rescinded 1954 ACS 56, p. 6, Eff. Nov. 14, 1968.

REGULATION NO. 117. PUBLIC EXHIBITION OF LIVESTOCK

R 285.117.1 Public exhibition of livestock.

Rule 1. (1) Seven days prior to the date when livestock are admitted to any building or yarding for exhibition purposes within Michigan, the buildings and yards shall have been thoroughly cleaned and disinfected by removing all manure and litter and all unused hay, straw, and forage from the premises, following which the walls, partitions, floors, mangers, yards, and runways shall be thoroughly sprayed with a 3% cresol solution or an equally efficient approved disinfectant solution. No livestock shall be admitted to the exhibition buildings or yards between the date of disinfection and the date livestock are admitted for exhibition.

(2) Any livestock known to be affected with a communicable disease shall not be offered for exhibition or allowed to mingle with susceptible animals on exhibition premises.

History: 1944 AC, p. 39; 1954 AC, p. 1506.

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REGULATION NO. 118. REDUCTION PLANTS FOR DISPOSAL OF DEAD ANIMALS

(By authority of Act No. 226 of the Public Acts of 1929, as amended, being §287.231 et. seq. of the Michigan Compiled Laws)

R 285.118.1 Reduction plants for handling and disposal of dead animals or parts thereof.

Rule 1. (1) It is hereby ordered that no person when engaged in the business of collecting dead animals for the purpose of disposal shall enter on the premises where swine affected with hog cholera are kept for the purpose of collecting the bodies of swine which have died of hog cholera, nor shall the carcass of any animal which has died of an infectious disease be moved onto any premises where animals susceptible to such infectious disease are kept. (Note: The law provides that vehicles used for collecting swine shall not leave a public highway to receive or collect any hog carcass and that said carcass shall not be moved from said vehicle except at the place of final disposal.)

(2) All trucks or vehicles used for the handling or hauling of dead animals, or any part thereof, the disposition of which comes within the meaning of the before mentioned act, shall be equipped with bodies made of nonabsorbent material and so constructed as to prevent a leakage or a seepage of any material from the aforesaid truck or vehicle at any time. Three sides of the truck body shall extend upwards not less than 6 inches in height and the tailgate attached to the truck body when closed shall extend upwards not less than 6 inches in height. The rear end of the floor of the truck body shall be flanged upwards to a height of not less than 1 inch. Suitable coverings and tarpaulins must be carried and shall be used to completely cover truck body and load at all times when truck is loaded and in use.

(3) The floor space in connection with the reduction plant where dead animals are skinned and prepared for the reduction tanks shall be thoroughly washed daily. The interior of the plant, including equipment, shall be cleaned at frequent intervals and kept free from accumulations of filth. Sewers and drains shall be flushed and cleaned regularly to insure proper drainage at all times.

(4) All premises, trucks, vehicles, containers, and tarpaulins used in connection with the handling or transportation of dead animals or material for rendering shall be kept cleaned and properly disinfected at frequent intervals; provided that, when the said truck or vehicle has been used to haul or handle any animals or part of an animal which has died, or has been killed, as the result of an infectious or contagious disease, the aforesaid truck or vehicle shall be cleaned and thoroughly disinfected before going on to any highway or premises other than those where the before mentioned animals, or parts of animals, are delivered for reduction purposes.

(5) In the event any reduction plant is unable to connect with a city sewage system, all sewers or drains shall be connected with a suitable catch basin or septic tank that admits proper cleaning, and suitable provision made to avoid stream pollution where this possibility exists.

(6) Section 3 of Act No. 226 of the Public Acts of 1929, as amended, requires that there shall be no escape of odors into the air. All reduction plants shall be properly equipped with condensers, or other satisfactory methods to control odors.

(7) Cracklings, tankage, meat scraps, or any finished product of a reduction plant shall not be stored where they come in contact with any raw material or dead animals utilized in connection with a reduction plant.

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(8) No truck or vehicle when loaded with dead animals for delivery to a reduction plant shall be parked or stored on any street of any city or village nor upon any highway or premises where such storing or parking shall constitute a nuisance. Any dead animals when collected for delivery to any disposal plant shall not be unloaded or handled or stored on any premises that cannot be properly cleaned and disinfected or in any place whereby such unloading, handling, or storing may create a nuisance in a community or contribute to the spread of a communicable disease.

History: 1944 AC, p. 39; 1954 AC, p. 1506.

REGULATION NO. 119. LIVESTOCK DISEASES

(By authority conferred on the state commission of agriculture by section 9 of Act No. 284 of the Public Acts of 1937, being §287.129 of the Michigan Compiled Laws)

R 285.119.1 Preventing spread of livestock diseases.

Rule 1. (1) The department may confer with the owner or management of any yarding, premises, or building which is to be used by such owner or management for the purpose of selling, trading, or delivering livestock and define an area surrounding such premises which shall be known as the market zone of said yarding or premises. All livestock brought into such market zone and sold or traded shall be handled and sold through the facilities of the management of the yarding within such zone in compliance with the Michigan state law and regulations of the department.

(2) Licensed livestock yards shall be provided with pens and buildings necessary to reasonably protect any livestock handled from injury and inclement weather. The pens and buildings shall be of such construction as will facilitate cleaning; and shall be regularly cleaned and kept free of mud and accumulations of manure and filth. The following provisions shall be complied with:

(a) Concrete or equally impervious floors shall be installed in all pens and alleys in all licensed livestock yards and in the loading and unloading areas immediately adjacent to the structure except in licensed livestock yards used exclusively for sale of the equine species according to the following schedule: ¼ or more of the nonconcreted or nonimpervious area existing on the effective date of this rule shall be paved during the calendar year 1963 and each succeeding year an additional ¼ or more of the original nonconcreted or nonimpervious area shall be paved until the total area shall have been paved by December 31, 1966, except pens used to house feeder cattle maintained on the premises by the owner for sale shall be exempt from the provision of this section. Any livestock yards licensed for the first time in 1963 or thereafter shall have concrete or equally impervious floors in all areas as provided for in this section.

(b) All pens, alleys, and dock areas shall be so constructed as to facilitate drainage. Water shall not be permitted to accumulate in pens, or alleys, or on the premises, except in approved lagoons.

(c) Manure shall not be allowed to accumulate on the premises of any licensed livestock yard for more than 6 days and shall be disposed of in a manner not dangerous to the health of livestock.

(d) The walls of all pens shall be kept clean and free of accumulations of filth.

(e) The area in front of the unloading dock, for a distance of 15 feet, shall be of concrete or impervious material so as to facilitate the cleaning up of manure and debris from the unloading trucks.

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(f) All auction rings, docks, pens, scales, and alleys used for holding livestock shall be thoroughly cleaned after each sale and before again being used to hold or move any livestock. In addition, auction rings and pens used to hold animals with an infectious or contagious disease shall also be thoroughly disinfected after each sale before again being used, with a disinfectant approved by the Michigan department of agriculture.

(g) All pens used to hold livestock for a period of over 16 hours shall have facilities for feeding and watering such livestock.

Cattle under 3 months of age shall be removed from the premises by noon the day following the sale. Responsibility for the removal of such animals shall be on the owner.

(3) Trucks or vehicles used by livestock dealers or brokers for transportation and handling of livestock shall be properly constructed to adequately protect livestock handled from injury and undue exposure to inclement weather and shall be regularly cleaned and disinfected as may be required. Manure and filth shall not be allowed to accumulate in such vehicles from day to day. The compartment of any vehicle used for the transportation of livestock affected with infectious or communicable disease or which has been used for the transportation of swine from a garbage feeding premises or a public livestock yarding shall be cleaned and properly disinfected before again loading such vehicle with livestock for transportation.

(4) Any sick or diseased livestock or livestock originating immediately from a herd any of the animals of which are affected with an infectious disease shall not be sold or disposed of through any yarding facilities as referred to herein or moved from such yarding except upon a permit from the department or unless delivered direct to a rendering establishment and used for rendering purposes. For the purpose of this rule, an animal affected with lump jaw (actinomycosis) or traumatic pericarditis (hardware disease), or which has recently given birth to young and which is carrying a retained afterbirth, shall be construed as sick or diseased. Provided, an animal affected with lump jaw or with traumatic pericarditis may be sold or removed to and sold through a yarding where federal and state inspection is daily maintained or to an officially inspected packing plant for immediate slaughter upon declaration subject to official veterinary inspection. The carcass of such animal shall be handled and disposed of in accordance with United States department of agriculture meat inspection regulations, now in force and effect. All pens used for confinement of brucellosis reactors, cattle from herds under quarantine, or any other animals with a contagious or infectious disease shall be so located that such animals shall travel a minimum of distance to and from the dock and sale ring. Such pens shall be of smooth tight siding construction and of sufficient height that they will not permit the contact of any other livestock. These pens shall be drained in such a manner as to prevent contamination of the alley. Pens used for livestock infected with contagious or infectious diseases shall be properly identified and shall not be used to confine any other livestock.

(5) The owner or management of livestock yardings shall keep a legible record of all sales transactions including the number, identification, and class of animals offered for sale and the purpose for which traded or sold through such yarding, with full name and post office address of the consignor and the name and post office address of the consignee.

(6) Except upon a permit from the department, swine shall not be sold or removed from a public livestock yarding unless immediately slaughtered or unless delivered direct to a yarding where state or federal veterinary inspection is daily maintained. Such swine shall not be allowed to contact any hogs not used for

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immediate slaughter or delivery as indicated in this rule. For the purpose of this rule, immediate slaughter shall mean killed or delivered at an inspected yarding as mentioned herein within 72 hours following removal from public sales yarding.

(7) Healthy swine which are not subject to quarantine and which are within the state and handled in compliance with the department rules and Michigan state law may be sold and removed from yardings referred to in this rule for purposes other than immediate slaughter when unloaded from the vehicles in which delivered directly to the vehicles in which the swine are removed from the sales premises.

(8) The director may require that barrows and gilts weighing over 80 pounds, that have not attained slaughter weight acceptable to the buyers of swine for slaughter purposes may be assembled for sale through livestock auctions under any or all of the following conditions, except as provided in subrule (9).

(a) Provide ample penning facilities under roof for protection of pigs from inclement weather.

(b) Each consignment to be separately penned until inspected by a representative of the Michigan department of agriculture. Barrows and gilts not inspected must go for immediate slaughter.

(c) All pens shall have concrete or impervious floors.

(d) All barrows and gilts sold through such sale premises shall:

(i) Not exhibit abnormal temperature or show symptoms of a contagious or infectious disease.

(ii) Be vaccinated immediately for hog cholera in accordance with methods recognized by the Michigan department of agriculture, and identified by a button or tag in the ear and a certificate of vaccination issued showing the type of vaccination used, before removal to farms.

Barrows and gilts offered for sale which are claimed to be immune to hog cholera shall be individually identified by a button or tag and accompanied by a vaccination certificate. Swine not so identified and accompanied by a certificate of vaccination shall be revaccinated in accordance with the provisions as outlined in (b) above.

(iii) Be vaccinated for erysipelas with a vaccine approved by the Michigan department of agriculture before removal to farms.

(e) Vaccination certificates will be retained by purchaser.

(f) Swine shall not emanate from garbage feeding premises.

(g) Swine shall be sprayed with lindane or benzene/hexachloride containing a cresylic compound or some other approved material before being moved to the farm of the purchaser and said spraying shall be the responsibility of the auction sale.

(h) All trucks or other conveyances bringing swine to or removing swine from said sale premises shall be free of any accumulated filth, litter, or manure.

(i) Each such sale premise shall:

(i) Have an adequate supply of available water.

(ii) Have adequate and suitable sewer or drainage to accommodate waste water used to wash and clean pens and alleys.

(j) All such swine sold must be removed within 24 hours after said sale.

(k) Swine sold as prescribed above will be held in quarantine 21 days on the buyer's premises, and shall be held separate and apart from all other swine.

(l) All pens used for barrows and gilts and the sale ring must be thoroughly cleaned and disinfected after each sale.

(m) All premises will be inspected and approved by the director of agriculture or his representative, and a permit issued to sell or remove barrows and gilts in accordance with requirements established in this rule.

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(n) The entry for sale and certificate of inspection of such swine shall be made upon blanks prescribed or approved by the department.

(9) The director may issue a permit for swine to be assembled and grouped for sale as feeding or breeding swine when facilities are provided separate and apart from any slaughter hogs, and these facilities and the methods of operation and management practices have been inspected and approved by the director of agriculture or his authorized representatives. The director may subject swine to all or part of subrule (8) when he deems it necessary to prevent the spread of a communicable disease of livestock.

History: 1944 AC, p. 40; 1944 ACS 29, p. 5; 1954 AC, p. 1508; 1954 ACS 17, p. 5, Eff. Feb. 14, 1959; 1954 ACS 19, p. 5, Eff. Aug. 14, 1959; 1954 ACS 23, p. 5, Eff. Aug. 12, 1960; 1954 ACS 34, p. 10, Eff. May 15, 1963; 1954 ACS 44, p. 11, Eff. Nov. 14, 1965.

REGULATION NO. 120. LICENSING OF LIVESTOCK YARDS

(By authority of Act No. 284 of the Public Acts of 1937, being §287.121 et seq. of the Michigan Compiled Laws)

R 285.120.1 Licensing of livestock yards.

Rule 1. Each dealer or broker as defined in the act shall pay the fee provided for in section 3 of said act for each livestock yard, as defined in the section, operated by him.

History: 1944 AC, p. 41; 1954 AC, p. 1508.

REGULATION NO. 121. LIVESTOCK DISEASES

(By authority of Act No. 181 of the Public Acts of 1919, as amended, being §287.2 et seq. of the Michigan Compiled Laws)

R 285.121.1 Preventing spread of infectious and contagious diseases of livestock.

Rule 1. Except upon a permit from the Michigan state commissioner of agriculture, no person shall sell or deliver to other than a veterinarian legally qualified to practice within the state of Michigan any Brucella vaccine (Bang abortion vaccine) or any hog cholera virus; provided producers of Brucella vaccine (Bang abortion vaccine) and hog cholera virus may sell and deliver such vaccine and hog cholera virus to said legally qualified veterinarians or to said producers' bona fide agents or sales representatives if a proper record of such sales is furnished the state department of agriculture as required by Michigan state law. Resale or delivery of Brucella vaccine or hog cholera virus by said agents or representatives shall be made only to said legally qualified veterinarians, and a report of such sale by said agents or representatives shall be furnished the state commissioner of agriculture within 5 days of said sale, furnishing name and mailing address of the person to whom sold or delivered. Provided further, except upon a permit from the state commissioner of agriculture, no person shall administer Brucella vaccine (Bang abortion vaccine) or any product which may cause an animal to react to an officially recognized test for Bang's disease (Brucellosis) to any cattle owned or kept within an area under quarantine in Michigan for the purpose of testing of cattle and control of Bang's disease in said area or to cattle which are under supervision or test for Bang's disease under the authority of the state department of agriculture.

History: 1944 AC, p. 41; 1954 AC, p. 1508.

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REGULATION NO. 122. USE OF HOG CHOLERA VIRUS AND ANTI-HOG CHOLERA SERUM

R 285.122 Rescinded.

History: 1944 AC, p. 42; 1954 AC, p. 1509; rescinded 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

REGULATION NO. 123. PREVENTING SPREAD OF BRUCELLOSIS

(By authority conferred on the department of agriculture by section 6 of Act No. 181 of the Public Acts of 1919 and section 2 of Act No. 13 of the Public Acts of 1921, being §§287.6 and 285.2 of the Michigan Compiled Laws)

R 285.123.1 Definition.

Rule 1. As used in these rules, "brucellosis" means the disease of livestock wherein an animal is infected with the brucella organism.

History: 1944 AC, p. 42; 1954 AC, p. 1509; 1954 ACS 6, p. 6, Eff. May 15, 1956; 1954 ACS 25, p. 29, Eff. Feb. 14, 1961; 1954 ACS 91, p. 25, Eff. May 11, 1977.

R 285.123.2 Animals considered infected.

Rule 2. An animal shall be considered infected with brucellosis if it reacts positively to a test, approved by the director of the department of agriculture, for use in the detection of that disease.

History: 1944 AC, p. 42; 1954 AC, p. 1509; 1954 ACS 6, p. 6, Eff. May 15, 1956; 1954 ACS 25, p. 29, Eff. Feb. 14, 1961; 1954 ACS 91, p. 25, Eff. May 11, 1977.

REGULATION NO. 124. TUBERCULIN AND BLOOD TESTING

(By authority of Act No. 181 of the Public Acts of 1919, as amended, being §287.2 et seq. of the Michigan Compiled Laws)

R 285.124.1 Tuberculin testing and blood testing of livestock.

Rule 1. (1) Any person who conducts a tuberculin test or engages in conducting a test for brucellosis upon any livestock except poultry within the state of Michigan shall identify each animal which is tested by a numbered metal tag inserted in the right ear of such animal or by an ear tattoo number or by a registration name and number. Except that where swine are tested the registration number shall not be sufficient and swine shall be identified by ear tag, button, or tattoo.

(2) A complete record of test including individual identification, the species, breed, sex, and age of the animals tested and the name and mailing address of the owner of said animals shall be filed with the livestock disease control division of the Michigan department of agriculture within 5 days following the completion of the test.

History: 1944 AC, p. 43; 1954 AC, p. 1510; 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

REGULATION NO. 125. ABORTION-FREE HERDS OF CATTLE

R 285.125 Rescinded.

History: 1944 AC, p. 43; 1954 AC, p. 1510; rescinded 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

REGULATION NO. 126. BANG'S DISEASE IN CATTLE EXHIBITED AT FAIRS

R 285.126 Rescinded.

History: 1944 AC, p. 44; 1954 AC, p. 1511; rescinded 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

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REGULATION NO. 127. TUBERCULIN TESTING AND TESTING FOR CONTROL OF BRUCELLOSIS

R 285.127.1 Tuberculin testing; testing for control of brucellosis.

Rule 1. When testing for eradication of tuberculosis and control of brucellosis of livestock is conducted by the state department of agriculture in cooperation with the federal government, it is hereby ordered that all work in connection with such testing shall be conducted upon an agreement signed by the cooperating authorities and that the work shall at all times be under the control of the state department of agriculture.

History: 1944 AC, p. 45; 1954 AC, p. 1512.

REGULATION NO. 129. DOG KENNELS

(By authority of section 10 of Act No. 339 of the Public Acts of 1939, as amended, being §287.270 of the Michigan Compiled Laws)

R 285.129.1 Dog kennels.

Rule 1. (1) The following rule is hereby established to be effective on and after April 22, 1946:

(a) Any dog kennel which under Michigan state law is to be covered by a license shall be of such construction as will adequately and comfortably house any dogs kept therein at any season of the year. The buildings, including walls and floors, shall be of such construction as to be readily cleaned, and kennels and yards connected therewith used to confine kennel dogs shall be kept cleaned and free from accumulation of filth, mud, and debris.

(b) All dogs kept or maintained in connection with such kennels shall be furnished with a clean, fresh water supply and adequate and proper food to maintain such animals in a normal condition of health.

(c) The necessary inspections to be made under this rule to determine whether the same has been complied with shall be made by the dog warden, if there be one, otherwise by such person as may be appointed by the board of supervisors or the legislative body of the government unit involved. If no such appointment is made and in effect in any county, city, or village, then such inspection shall be made on behalf of the commissioner of agriculture by the sheriff or chief of police.

(d) In all cases, upon such inspection being satisfactory, a certificate of inspection shall be signed by such inspector on behalf of the commissioner of agriculture as required by the act.

(2) The provisions of this rule shall not be effective in the counties of this state that are operating under the provisions of section 16 of Act No. 79 of the Public Acts of 1933, being §287.276 of the Michigan Compiled Laws, wherein the board of supervisors have appointed a county dog warden with certain powers and duties, unless such counties by a resolution duly adopted by the board of supervisors accept the provisions of Act No. 245 of the Public Acts of 1945, being §287.261 et seq. of the Michigan Compiled Laws.

History: 1944 ACS 6, p. 18; 1954 AC, p. 1512.

REGULATION NO. 132. IMPORTATION OF CATTLE

R 285.132 Rescinded.

History: 1944 ACS 9, p. 29; 1954 AC, p. 1512; rescinded 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

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REGULATION NO. 133. PUBLIC EXHIBITION OF POULTRY

(By authority of Act No. 181 of the Public Acts of 1919, as amended, being §287.2 et seq. of the Michigan Compiled Laws)

R 285.133.1 Relating to the public exhibition of poultry.

Rule 1. (1) Feed and water containers provided for exhibition coops shall be new or properly cleaned.

(2) Feed or water containers from which birds have eaten or drunk must be refilled so as not to contaminate the common supply of feed or water. Feed or water containers may not be removed from exhibition coops except for the purpose of cleaning.

(3) Exhibition coops must be thoroughly cleaned and disinfected, both prior to and following each exhibition.

(4) Exhibition coops must be so constructed and placed as to provide adequate light for proper inspection of poultry or evidence of transmissible diseases.

(5) Litter for exhibition coops must be of clean material and renewed daily or more often as needed.

(6) Shipping crates used in shipment of birds by common carriers may not be used as exhibition coops. Shipping crates shall be cleaned and disinfected on day of arrival after birds have been removed for exhibition and before being used again. Whenever possible and convenient shipping crates shall not be stored in exhibition room.

(7) No bird shall be handled by anyone other than the attendant and judge after they have been placed in exhibition coops.

History: 1944 ACS 18, p. 25; 1944 ACS 27, p. 5; 1954 AC, p. 1513

REGULATION NO. 135. SERUMS, ANTIGENS, AND VACCINES

R 285.135.1 Importation, distribution, and use of serums, antigens, and vaccines.

Rule 1. (1) Any antigen, serum, or vaccine containing a live virus or live organism of any disease of livestock, imported into this state under a permit issued by the United States bureau of animal industry for experimental purposes, shall be shipped only to licensed veterinarians, federal or state veterinarians, or state institutions, or direct to veterinary supply houses whose main business is selling veterinary supplies to veterinarians, and who have been issued a permit to sell the above products by the Michigan department of agriculture.

(2) A report of each shipment must be made by the person, agency, or company consigning, shipping, or transporting such serum, antigen, or vaccine into Michigan to the Michigan department of agriculture. The report shall state the quantity consigned, shipped, or transported, and the name and address of the recipient of the same. Such report must be made within 5 days of such consignment, shipment, or transporting.

(3) Any veterinarian using such serum, antigen, or vaccine covered by the provisions of this rule must report within 5 days to the Michigan department of agriculture the use made of such serum, antigen, or vaccine, and such other information as may be required, including the number of animals to which it has been administered, on forms furnished by the department.

(4) Written permit from the Michigan department of agriculture must be obtained by any person, agency, or company before any serums, antigens, or vaccines coming under the provisions of this rule may be imported into Michigan. Each veterinary supply house must obtain a permit from the Michigan department of agriculture before receiving such products and must otherwise comply

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with the provisions of this rule and limit the sale of such serums, antigens, and vaccines to veterinarians. Such permit shall set forth such other details as may be mutually agreed upon and when signed by both parties shall become an agreement between the Michigan department of agriculture and such person, agency, or company importing such serum, antigen, or vaccine covered by this rule.

History: 1944 ACS 27, p. 14; 1944 ACS 29, p. 6; 1954 AC, p. 1514.

REGULATION NO. 136. FEEDING GARBAGE TO SWINE

(By authority of Act No. 181 of the Public Acts of 1919, as amended, and Act No. 173 of the Public Acts of 1953, being §287.2 et seq. and §287.401 et seq. of the Michigan Compiled Laws)

R 285.136.1 Garbage feeding lots or premises; garbage containers; heat treatment of garbage; feeding garbage to swine.

Rule 1. (1) A garbage feeding lot or premises as used in this rule means all land area and buildings and equipment used in connection therewith at a given location under the management or control of any person and on which any swine are kept or permitted habitation, on which garbage is received or kept other than the individual owner's own domestic garbage.

(2) Any garbage delivered or received onto a garbage feeding lot or premises shall be in watertight containers of metal or waterproof material which have covers also of waterproof material. The word "container," as used herein, includes a portion of a vehicle. In order to protect against contamination to other areas of the lot or premises from spill of uncooked garbage and liquids therefrom, all containers of garbage shall be delivered onto a floor or platform constructed of cement or other waterproof material from which floor or platform all drainage shall be into a pit, vat or other approved sewerage.

(3) Vats, tanks, or other containers used for heat treatment of garbage shall be located immediately on or adjacent to the floor or platform specified in subrule (2) to permit containers of garbage to be emptied into said heat processing containers direct from said floor or platform. If garbage is heat treated in the container on the vehicle in which it is delivered, said vehicle shall remain on the said floor or platform during the heat treatment procedure.

(4) Any and all garbage delivered or received or present on a garbage feeding lot or premises, or used to feed swine, shall be heat treated at a temperature of 212 degrees Fahrenheit for at least 30 minutes, which heat shall be determined by thermometer readings.

(5) Garbage, on which heat treatment has been completed, shall be removed from the vat, tank, or container in which heat treated, or otherwise completely separated from raw garbage and containers to prevent contamination of heat treated garbage, at a point separated from the floor or platform on which garbage is heat treated and delivered to the feeding area on the garbage feeding lot or premises. Forks, shovels, or any other utensils or equipment used to handle raw garbage shall not be used to handle cooked garbage.

(6) Garbage feeding lots and premises and all facilities related thereto used in handling, processing, and feeding garbage to swine shall at all times be maintained in an approved sanitary condition. In order to maintain approved sanitation the heat treated garbage shall be fed upon a floor or in troughs, and said floor or troughs shall be constructed of cement or other material that will permit collection for removal of all wastes from feeding in a satisfactory manner for approved

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disposal. No such wastes shall be transported to any place outside the garbage feeding lot or premises on which it originated.

(7) No swine shall be fed garbage until vaccinated against hog cholera through simultaneous treatment with anti-hog cholera serum and hog cholera virus or other approved material by an approved veterinarian.

(8) Any and all swine sold or removed from any garbage feeding lot or premises shall be accompanied by a certificate of inspection, by an approved veterinarian of the Michigan department of agriculture as a result of inspection of all swine on the garbage feeding lot or premises, showing said swine to be free from any symptoms or other physical evidence of infectious and contagious disease within the 24 hours immediately preceding the removal of the swine from such garbage feeding lot or premises; and any and all swine so certified shall be sent to immediate slaughter except upon permit from the director of agriculture or his authorized representative.

(9) This rule shall not apply to any individual who feeds garbage from only his own domestic household to swine, or to anyone who, under section 2 of this act, has been granted an exemption from the provisions of this act.

History: 1944 ACS 36, p. 5; 1954 AC, p. 1514.

REGULATION NO. 137. SWINE FED RAW GARBAGE

R 285.137 Rescinded.

History: 1944 ACS 37, p. 5; 1954 AC, p. 1515; rescinded 1954 ACS 31, p. 6, Eff. Aug. 14, 1962.

REGULATION NO. 138. RECORDS

(By authority of Act No. 181 of the Public Acts of 1919, as amended, being §287.2 et seq. of the Michigan Compiled Laws)

R 285.138.1 Records required of livestock dealers, brokers, or agents.

Rule 1. (1) Each dealer, broker, and agent receiving or disposing of animals must keep adequate and complete records and present them for inspection at any time when so requested by any representative of the Michigan department of agriculture. Said records shall:

(a) Identify all animals acquired or disposed of and dates of such acquisition or disposal. Identification shall be by ear tag, tattoo, brand, or adequate description, including breed, sex, age, weight, etc.

(b) Show the date and source of all animals, including names and addresses of persons from whom obtained.

(c) Record all health tests or treatments required by law on animals acquired or disposed of.

(d) Indicate extent of compliance with any quarantine imposed by the director of agriculture as a disease control measure.

(e) Show date and place of disposition of animals, including the names and addresses of the persons receiving such animals.

(2) Each dealer, broker, and agent conducting livestock auction market or consignment sale shall keep adequate and complete records and present them for inspection at any time when so requested by any representative of the Michigan department of agriculture. Said records shall:

(a) Identify all animals sold, or otherwise disposed of. Identification to be by ear tag, tattoo, brand, or adequate description including breed, sex, age, weight, etc.

(b) Record the name and address of owner or consignor.

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(c) Show the date of sale.

(d) Record health tests and treatments of all animals as required by law.

(e) Indicate the extent of compliance to any quarantine imposed by the director of agriculture as a disease control measure.

(f) Name and address of (buyer) person or firm acquiring all animals, and date acquired.

History: 1954 ACS 3, p. 5, Eff. Aug. 15, 1955; 1954 ACS 31, p. 7, Eff. Aug. 14, 1962.

REGULATION NO. 139. DOMESTIC MINK FARMS

R 285.139 Rescinded.

History: 1954 ACS 1, p. 9, Eff. Mar. 18, 1955; rescinded 1954 ACS 31, p. 7, Eff. Aug. 14, 1962.

REGULATION NO. 140. BRUCELLOSIS-FREE HERDS

R 285.140.1 Establishment and maintenance of brucellosis-free herds of cattle.

Rule 1. (1) This rule rescinds R 285.125. Herds that are now accredited will be certified at the expiration of the accreditation on the basis of 1 clean blood test.

(2) Herd owners may file an application with the division of livestock disease control, Michigan department of agriculture, to place their herds under supervision of the department of agriculture for the prevention and control of brucellosis. Only official records of milk and tube agglutination blood tests on file in the department of agriculture will be recognized for the purpose of herd certification. The application shall include:

(a) Name and address of owner.

(b) Location of herd.

(c) Description of herd, identifying all cattle included in the herd by ear tag number, tattoo number, or registration name and number, name of breed, age and sex.

(3) Investigation by department of agriculture to determine eligibility of herd for certification: A herd may be placed under supervision for certification as brucellosis-free upon complying with provisions governing the testing requirements of the Michigan department of agriculture. The cost of all tests shall be at the herd owner's expense except such tests as may be coincident with the area testing of the state and federal cooperative program.

(4) Herd certification:

(a) Herd tests shall be made at intervals of not more than 60 days until all evidence of infection has been eliminated. These tests shall include all animals over 6 months of age, except steers, spayed heifers, and officially vaccinated animals not more than 30 months of age. If evidence of infection is found on the first test, a herd may be certified as brucellosis-free only when it has passed at least 3 consecutive tests, with the first clean test and the qualifying test not less than 12 months apart; provided, however, if herd tests for certification purposes reveal suspects only, such animals must be isolated from the herd and retested in not less than 30 days or more than 60 days of the herd test and found to be negative; such herd tests shall be considered negative.

(b) When there is no evidence of infection on the first test, a herd may be certified as brucellosis-free when it has passed 1 additional clean test conducted not earlier than 6 months nor more than 12 months from the date of the first.

(c) When the milk test is employed, herds may be certified as brucellosis-free with a minimum of 3 negative milk tests conducted at not less than 90-day nor more than 360-day intervals and followed by a negative blood test.

(5) Herd recertification:

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(a) Upon evidence of a negative herd blood test at the end of 1 year, certification of that herd may be extended for another year.

(b) If the retest of a certified herd or of animals from such a herd reveals 1 reactor, the remainder of the herd shall then be subject to further tests. The herd may be recertified on the results of 2 negative tests conducted not less than 60 days apart, with the first at least 30 days after the date of the test on which the reactor was disclosed.

(c) If the retest of a certified herd or of animals from such a herd reveals more than 1 reactor, the herd must requalify for certification as under subrule (4).

(d) When the certified status of a herd has been cancelled only because of the presence of over-age vaccinated animals showing continuing reactions of 1:100 or higher, the status may be restored upon evidence of 1 clean herd retest. It must be applied not earlier than 60 days following removal of such reactors.

(e) If the retest of a certified herd discloses unvaccinated suspects but no reactors only the suspicious animals need be retested. All suspects must be isolated from all other cattle until retested and found negative or until removed from the herd. If all suspects are available for retest and are negative, the herd test may then be considered negative. Unvaccinated suspects that do not pass a negative retest within 60 days following the orginal retest will be removed from the herd and the entire herd must pass a negative blood test conducted not less than 30 days following removal of the suspect or suspects. If the retest does not include all suspicious animals, or if 1 or more reactors result, the herd shall be classed as infected and tested as under subdivisions (b) and (c) of this subrule.

(6) For purposes of this rule, official calfhood vaccination shall mean animals vaccinated between 4 through 8 months of age, inclusive, with an approved vaccine by an accredited veterinarian, record of which shall be filed with the division of livestock disease control, Michigan department of agriculture.

(7) Animals under 30 months of age officially vaccinated as calves shall not be required to be negative to test. Officially calf-vaccinated animals over 30 months of age, showing titer, may be retained in certified herds of a retest of such animals in not less than 30 days or more than 60 days shows the titers to be stabilized or receding at not more than incomplete at 1:100.

(8) Addition to herds.

(a) To certified herds:

(i) Natural increase.

(ii) From herds with equal status.

(iii) From herds that have passed a negative blood test within the past 12 months:

(A) Officially calf-vaccinated animals up to 30 months of age on certificate of vaccination—vaccinated animals over 30 months if negative within 30 days prior to entry, or

(B) Nonvaccinated animals on evidence of negative retest not less than 60 days from date of negative herd test of the herd of origin.

(b) To herds that have passed a negative blood test within the past 12 months:

(i) Natural increase.

(ii) From herds with equal or superior status.

(iii) From other herds, (1) Officially calf-vaccinated animals up to 30 months of age on certificate of vaccination—30 months, if negative to test within 30 days prior to entry; or (2) Nonvaccinated animals if tested negative within 30 days prior to entry, then segregated and retested negative in not less than 60 days from the date of test made prior to entry.

(9) Additions from herds without equal status.

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Under qualifying conditions of subrule (8)(a)(ii) and (b)(ii), such animals shall not receive new herd status for sales purpose until they have been members at least 30 days and included in a complete herd retest.

(10) Certified brucellosis-free herd certificates, which shall be valid for 1 year unless revoked, may be issued by the Michigan department of agriculture.

(11) Animals must be confined to the premises if reactors are disclosed by the blood test. Movement from such premises is allowed only under permit until after a clean herd test 30 days following disclosures of reactors. In order to maintain their status of certification, members of any certified herd must be kept separate and apart from any other cattle unless such cattle are from a certified herd.

(12) Premises shall be cleaned and disinfected under state supervision, or proper direction, following removal of reacting animals.

(13) The director of agriculture may cancel any herd certificates, if the owner violates this rule or any other laws of the state of Michigan relative to brucellosis control.

History: 1954 ACS 2, p. 5, Eff. May 13, 1955; 1954 ACS 6, p. 6, Eff. May 15, 1956; 1954 ACS 31, p. 7, Eff. Aug. 14, 1962.

REGULATION NO. 141. APPROVAL OF CALFHOOD VACCINATION

R 285.141.1 Conditions for approval of brucellosis calfhood vaccination.

Rule 1. (1) Desiccated brucella strain 19 vaccine is hereby approved for use for officially vaccinating calves against brucellosis when used in accordance with the provisions of section 21a of Act No. 181 of the Public Acts of 1919, as amended.

(2) The minimum amount of strain 19 vaccine used on any 1 animal shall be 5 cc of reconstituted desiccated vaccine.

(3) The vaccine shall be administered subcutaneously.

(4) Vaccines shall be kept under refrigeration and otherwise handled in accordance with the manufacturer's recommendations.

(5) All calves officially vaccinated in accordance with section 21a(c) of Act No. 181 of the Public Acts of 1919, as amended, shall be tattooed in the right ear at the time of vaccination. The tattoo shall show the quarter of the year and the year in which the calf was vaccinated. The first quarter of the year (January, February, March) shall be designated by the number 1; the second quarter (April, May, June) by the number 2; the third quarter (July, August, September) by the number 3; and the fourth quarter (October, November, December) by the number 4. The year shall be designated by the last digit of the year (the year 1956 will be designated by the number 6). The letter [V] enclosed in a shield (for vaccinate) shall be placed between the numbers or letters designating the quarter of the year and the year in which the calf was vaccinated. Ex:I [V] 6. It shall be unlawful for anyone to tattoo any bovine animal with the above symbol and designations unless it is used in the right ear of an officially vaccinated calf.

(6) After effective date of this rule, only calves vaccinated with strain 19 will be issued certificates of record or vaccination certificates as required in section 21a of Act No. 181 of the Public Acts of 1919, as amended.

History: 1954 ACS 6, p. 8, Eff. May 15, 1956; 1954 ACS 27, p. 5, Eff. Aug. 14, 1961; 1954 ACS 32, p. 5, Eff. Nov. 14, 1962; 1954 ACS 33, p. 6, Eff. Feb. 14, 1963.

REGULATION NO. 142. AREA TESTING

R 285.142.1 Rules for county-wide (area) testing.

Rule 1. (1) A brucellosis ring (BRT) test will be conducted on all milk-producing herds in the county under test. The milk samples may be collected

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either at the farm or the dairy plant or receiving stations where the owner's milk is delivered. Samples will be collected each 6 months or at such time intervals as deemed necessary to control brucellosis, and as funds for such are available.

(2) Animals over 6 months of age in herds showing suspicious reaction to the BRT test will be individually tested by the agglutination blood test, except those exempt by law. All animals over 6 months of age in beef or nonmilk-producing herds, including beef herds on dairy farms, will be blood tested, except those exempt by law.

(3) All animals reacting positively to the agglutination blood test will be permanently identified in accordance with section 21c of Act No. 181 of the Public Acts of 1919, with a "hot iron" brand; provided, however, the owner of any animal or animals reacting to such blood test may within 5 days of being notified that said animal or animals are reactors, request the approval of the director of agriculture to have said animal or animals retested, stating the reasons why he believes it advisable to conduct such retest. If the director of agriculture approves a retest of said animal or animals, it shall be done within the period specified by the director of agriculture at the time he grants approval of said retest. Such animal or animals to be retested must be kept separate and apart from all other cattle until such retest is made. The entire herd of which said animal or animals are a member will be held under quarantine, and it will be unlawful, in accordance with the provisions of section 10 of Act No. 181 of the Public Acts of 1919, for any animal or animals to be moved from the premises on which said herd is located, except when accompanied by permit issued by the director of agriculture.

(4) If said animal or animals or any other animal in said herd are classified as reactors on the retest, they will be forthwith branded.

(5) All animals classified as reactors must be disposed of for slaughter only within 15 days of branding, in accordance with instructions given by the director of agriculture; provided, however, that the director may, by special permit, grant an additional 15 days, but in no case shall the period of time between branding and slaughter exceed 30 days.

History: 1954 ACS 6, p. 8, Eff. May 15, 1956; 1954 ACS 27, p. 5, Eff. Aug. 14, 1961; 1954 ACS 32, p. 5, Eff. Nov. 14, 1962; 1954 ACS 42, p. 16, Eff. May 15, 1965.

REGULATION NO. 144. CLAIMS AGAINST LIVESTOCK AUCTIONS

(By authority of Act No. 284 of the Public Acts of 1937, as amended, being §287.121 et seq. of the Michigan Compiled Laws)

R 285.144.1 Procedure for determining claims against livestock auctions.

Rule 1. (1) A notice, setting forth the date, time, and place of a proposed hearing will be:

(a) Mailed to each known claimant.

(b) Published in a newspaper serving the area where the affected livestock auction is located once each week for 2 consecutive weeks.

(c) Posted at 6 prominent places on the premises of the affected livestock auction.

(2) During the course of the hearing, each claimant shall submit to the director of agriculture his claim in writing on a form as approved by the director and such other proof as may be required of him for the purpose of substantiating said claim against the livestock auction.

(3) In lieu of submitting such claim at the hearing, the claimants may submit their proof of claim by mail, provided said proof of claim shall be postmarked at least 3 days prior to the date set for the hearing.

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(4) All claims and other proof as submitted will be reviewed by the director of agriculture and he shall rule upon the validity of each claim; provided, however, he may request additional information of the claimant. Thereafter, the director of agriculture will determine the exact amount to be paid to each claimant.

(5) No new or additional claims will be accepted after the close of the hearing.

(6) After determination of the amount due each claimant, said claimant will be notified, and thereafter the director of agriculture will determine the method or methods by which moneys determined to be due will be distributed to each claimant, and will thereupon proceed to make such distribution.

History: 1954 ACS 14, p. 5, Eff. May 14, 1958.

REGULATION NO. 145. MOVEMENT OF SHEEP

(By authority conferred on the department of agriculture by Act No. 181 of the Public Acts of 1919, as amended, being §287.2 et seq. of the Michigan Compiled Laws)

R 285.145.1 Movement of sheep into scabies-free and eradication areas.

Rule 1. (1) Sheep not known to be infected or exposed to scabies may be moved into a free or eradication area for any purpose after the entire flock from which the sheep to be moved have been inspected by an authorized representative of the director of agriculture or an accredited veterinarian, found to be free from scabies and exposure thereto, and the sheep to be moved have been dipped once in a permitted dip within 10 days prior to date of movement, and are accompanied by a certificate from said inspector or veterinarian stating that such requirements have been fulfilled. A copy of such certificate shall be immediately forwarded to the department of agriculture.

(2) There shall be no restriction under this rule on the movement of sheep not known to be infected or exposed to scabies within a free area or from one free area to another free area or from a free area to areas not so designated.

History: 1954 ACS 34, p. 13, Eff. May 15, 1963.

REGULATION NO. 146. HUMANE SLAUGHTER METHODS

(By authority conferred on the department of agriculture by Act No. 163 of the Public Acts of 1962, being §287.551 et seq. of the Michigan Compiled Laws)

R 285.146.1 Humane slaughter methods.

Rule 1. (1) For the purpose of this rule the following terms shall be construed, respectively, to mean:

(a) "The act." Act No. 163 of the Public Acts of 1962.

(b) "Director." The director of the Michigan department of agriculture.

(c) "Division." Livestock disease control division of the Michigan department of agriculture.

(d) "Inspectors." Inspectors of the division.

(e) "Carbon dioxide." A gaseous form of the chemical formula CO_2.

(f) "Carbon dioxide concentration." Ratio of carbon dioxide gas and atmospheric air.

(g) "Exposure time." The period of time an animal is exposed to an anesthesia-producing carbon dioxide concentration.

(h) "Anesthesia." Loss of sensation or feeling.

(i) "Surgical anesthesia." A state of unconsciousness measured in conformity with accepted surgical practices.

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(j) "Consciousness." Responsiveness of the brain to the impressions made by the senses.

(k) "Captive bolt." A stunning instrument which when activated drives a bolt out of a barrel for a limited distance.

(2) No person engaged in, or in charge of, slaughter or preparation of animals for slaughter shall obstruct, hinder, or interfere with the director of agriculture or his authorized representatives in performing such inspections as the director of agriculture or his authorized representatives shall deem to be necessary to determine if humane methods of slaughtering and preparation for slaughter are being practiced in any meat processing establishment, slaughterhouse or stockyard. Such inspection may be performed without prior notice to the operator or owner of the establishment.

(3) Designation of methods:

(a) Chemical: Carbon dioxide. The slaughtering of sheep and swine with the use of carbon dioxide gas and the handling in connection therewith, in compliance with the provisions contained in this subrule, are hereby designated and approved as humane methods of slaughtering and handling such animals under the act. The carbon dioxide gas shall be administered in a chamber in accordance with this subrule so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be exposed to the carbon dioxide gas in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort to the animals.

(b) Mechanical:

(i) Captive bolt. The slaughtering of sheep, swine, goats, calves, cattle, horses, and mules by using captive bolt stunners and the handling in connection therewith, in compliance with the provisions contained in this subrule, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the act. The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort. Immediately after the stunning blow is delivered, the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking, and bleeding.

(ii) Gunshot. The slaughtering of cattle, calves, sheep, swine, goats, horses, and mules by shooting with firearm is hereby designated and approved as humane method of slaughter. The firearm shall be employed in the delivery of a bullet or a projectile from a barrel containing rifling into the animal so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The caliber and choice of firearm shall be such as to render the animal unconscious with a single shot, but caliber shall not exceed .25 caliber.

(c) Electrical. Stunning with electric current. The slaughtering of swine, sheep, calves, and cattle with the use of electric current and the handling in connection therewith, in compliance with the provisions contained in this subrule, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the act.

(i) The electric current shall be administered so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be exposed to the electric current in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort to the animals.

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(ii) Each animal shall be given a sufficient application of electric current to insure unconsciousness immediately and through the bleeding operation.

History: 1954 ACS 35, p. 33, Eff. Aug. 14, 1963.

REGULATION NO. 147. STARTED PULLETS

(By authority conferred on the department of agriculture by Act No. 213 of the Public Acts of 1962, being §287.171 et seq. of the Michigan Compiled Laws)

R 285.147.1 Started pullets.

Rule 1. (1) In accordance with provisions of Act No. 213 of the Public Acts of 1962, persons offering started pullets for sale may request the director to certify as to age, condition, and state of health of started pullets.

(2) Qualifications for certification shall consist of:

(a) Certification shall be accomplished by an inspection of the pullets, within 10 days of sale or movement, on the premises where raised by a veterinarian or his alternate veterinarian designated by the applicant, both veterinarians having been approved by the director of agriculture.

(b) The inspection shall include an observation of the environment to determine that the pullets have been raised under good husbandry practices.

(c) The inspector shall be satisfied that the pullets are of the age, growth, and condition as represented. The inspector shall be furnished records showing hatching date, health, and vaccination history of the pullets to be certified.

(d) The pullets must be in good physical health. If the inspector deems it necessary, he may submit birds to a laboratory for examination prior to certifying as to the health of the pullets.

(e) A certificate of certification as to the age, condition, and health of the pullets shall be issued on behalf of the director of agriculture by the inspecting veterinarian when he shall be satisfied that the birds are as represented as to age and condition and are clinically healthy on forms furnished by the state department of agriculture.

(f) The cost of the professional services for inspections and certifications of started pullets shall be paid by the applicant.

(g) The inspecting veterinarian shall forward a copy of the certificate of certification to the livestock disease control division of the Michigan department of agriculture, Lansing, Michigan, within 5 days following the certification.

History: 1954 ACS 35, p.35, Eff. Aug. 14, 1963.

REGULATION NO. 148. STATEWIDE MEAT INSPECTION

(By authority conferred on the director of agriculture by section 2 of Act No. 280 of the Publc Acts of 1965, being §287.572 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 285.148.001 Definitions.

Rule 1. In addition to the definitions in the meat inspection law, Act No. 280 of the Public Acts of 1965, being §§287.571 to 287.582 of the Michigan Compiled Laws, as used in these rules:

(a) "An approved meat inspection program" means a district, county, city, township, or village meat inspection program that has been evaluated and approved by the director of agriculture.

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(b) "Truck" means any vehicle used to transport meat or meat products.

(c) "Carcass" means all parts including viscera of a slaughtered animal that are capable of being used for human food.

(d) "Inspector" means a person authorized by the director of agriculture to perform under the supervision of a veterinarian ante-mortem inspection and post-mortem inspection of meat animals and other duties including enforcement of sanitary measures to insure wholesomeness of meat or meat products.

(e) "Department employees" means inspectors and all other individuals employed by the department who are authorized by the director of agriculture to do any work or perform any duty in connection with meat inspection.

(f) "Veterinary inspector" means a veterinarian who shall be a graduate of an accredited school of veterinary medicine and employed by the department of agriculture or by an approved district, county, city, township, or village meat inspection program to perform or supervise meat inspection duties. Those veterinarians who are not licensed to practice veterinary medicine by the state of Michigan at the time of the passage of Act No. 280 of the Public Acts of 1965 and are employed by the department of agriculture or by an approved district, county, city, township, or village may continue as veterinary inspectors. All veterinary inspectors employed after the effective date of Act No. 280 of the Public Acts of 1965 must have a license to practice veterinary medicine in the state of Michigan.

(g) "Official establishment" means any slaughterhouse or edible rendering establishment or similar establishment at which inspection is required pursuant to Act No. 280 of the Public Acts of 1965.

(h) "Division" means livestock disease control division of the Michigan department of agriculture.

(i) "Meat inspection law" means Act No. 280 of the Public Acts of 1965.

(j) "Inspected and passed," "MDA inspected," or " Michigan inspected and passed by the department of agriculture" or any authorized abbreviations thereof means the meat, meat by-products or meat food products so marked have been inspected and passed under this regulation and at the time they were inspected, passed and so marked they were found to be sound, healthful, wholesome, and fit for human food.

(k) "MDA passed for cooking" means the meat and meat by-products so marked have been inspected and passed on condition that they be rendered into lard, rendered pork fat or tallow as prescribed in these rules or otherwise cooked by a method approved by the director of agriculture.

(l) "MDA passed for refrigeration" means the meat and meat by-product so identified have been inspected and passed on condition that they be refrigerated or otherwise handled as prescribed in these rules or by a method approved by the director of agriculture.

(m) "MDA inspected and condemned" or any authorized abbreviation thereof means the carcass, viscera, parts of carcass, meat, meat by-product or meat food products so marked or so identified as unsound, unhealthful, unwholesome, or otherwise unfit for human food.

(n) "MDA-retained" means the carcass, viscera, part of carcass, meat, meat by-product, meat food product, or other article so marked or identified is held for further examination by a veterinary inspector to determine its disposal.

(o) "MDA suspect" means the animal so marked is suspected of being affected with a disease or condition which may require its condemnation in whole or in part when slaughtered and is subject to further examination by an inspector to determine its disposal.

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(p) "MDA condemned" means the animal so marked has been inspected and found to be in a dying condition or to be affected with any other condition or disease that would require condemnation of its carcass.

(q) "Inspection legend" means a mark or a statement authorized by Act No. 280 of the Public Acts of 1965 on a product or on the container of a product indicating that the product has been inspected and passed for food by an inspector.

(r) "Meat by-product" means any edible part other than meat which has been derived from 1 or more cattle, calves, sheep, lambs, goats, swine, or solipeds.

(s) "Meat food product" means any article of food or any article which enters into the preparation of food for human consumption which is derived or prepared in whole or in part from any portion of the carcass of any cattle, calves, sheep, lambs, goats, swine, or horses, except such articles as organo-therapeutic substances, meat juice, meat extract, and the like which are only for medicinal purposes and are advertised only to the medical profession.

(t) "Product" means any part or all of meat, meat by-product, or meat food product.

(u) "Immediate container" or "true container" means the unit can, pot, tin, canvas, or other receptacle or covering in which any product is customarily shipped.

(v) "Shipping container" or "outside container" means the box, bag, barrel, crate, or other receptacle or covering enclosing any product packed in 1 or more immediate or true containers.

(w) "MDA" means Michigan department of agriculture.

(x) "Unofficial establishment" means an establishment not licensed under Act No. 280 of the Public Acts of 1965.

(y) "Premises" means all land area directly adjacent to and including the establishment which is actually physically used in the operation of the business including parking and storage areas and the waste disposal system.

History: 1954 ACS 46, p. 6, Eff. May 14, 1966.

R 285.148.002 Scope of inspection.

Rule 2. (1) Every establishment in which cattle, calves, sheep, lambs, goats, swine, or horses are slaughtered for transportation or sale as articles of commerce or in which meat, meat by-products, or meat food products of or derived from cattle, calves, sheep, lambs, goats, swine, or horses wholly or in part which are capable of being used as food for man shall have inspections under these rules in accordance with Act No. 280 of the Public Acts of 1965, except as expressly exempted by Act No. 280 of the Public Acts of 1965.

(2) All cattle, calves, sheep, lambs, goats, swine, or horses entering an establishment at which inspection is required by Act No. 280 of the Public Acts of 1965 and all product prepared in whole or in part therein shall be inspected, handled and prepared, marked, and labeled as required by these rules.

(3) Horses and other solipeds may not be slaughtered in the same establishment in which cattle, calves, sheep, lambs, goats, and swine are slaughtered.

(4) Every establishment in which horses and other solipeds are slaughtered or in which carcasses, parts of carcasses, meat, meat by-products, or meat food products of or derived from horses or other solipeds are wholly or in part prepared for transportation or sale which are capable of being used as food for man shall have inspection in accordance with these rules.

History: 1954 ACS 46, p. 8, Eff. May 14, 1966.

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R 285.148.003 Application for license.

Rule 3. (1) The proprietor or operator of each slaughterhouse or edible rendering establishment, except plants licensed under Act No. 226 of the Public Acts of 1929, as amended, and operations licensed under Act No. 228 of the Public Acts of 1952, as amended, shall make application for license as provided by Act No. 280 of the Public Acts of 1965. Every application under this rule shall be made on a form furnished by the Michigan department of agriculture. In the cases of change of ownership or change of location a new application shall be made.

(2) The proprietor or operator of each slaughterhouse or edible rendering establishment required to be licensed under Act No. 280 of the Public Acts of 1965 shall make application to the director of agriculture for a license for each truck operated to transport meat or meat products. The application for license shall be on a form furnished by the Michigan department of agriculture.

(3) The applications provided for under subrules (1) and (2) shall be accompanied by a statutory fee for such license.

(4) The first time that application for license is made for new plants constructed or completed after January 1, 1966, the application shall be accompanied by triplicate copies of complete drawings consisting of floor plans showing location of principal pieces of equipment, floor drains, principal drainage lines, hand basins, and hose connections for clean-up purposes; and a plot plan showing limits of plant's premises, and the cardinal points of the compass, and roadways and railroad sidings serving the plant shall accompany the applications for license. This requirement applies only to plants constructed after January 1, 1966.

(5) Plans for proposed construction changes in existing plants shall be submitted to the director of agriculture prior to initiation of construction.

(6) Plans for construction of new plants requiring inspection under Act No. 280 of the Public Acts of 1965 shall be submitted to the director of agriculture prior to initiation of construction.

History: 1954 ACS 46, p. 8, Eff. May 14, 1966.

R 285.148.004 Exemptions.

Rule 4. (1) Plants licensed under Act No. 226 of the Public Acts of 1929, as amended, and operations licensed under Act No. 228 of the Public Acts of 1952, as amended, are exempted from these rules.

(2) Any product transported within the state of Michigan under an exemption certificate granted by the United States department of agriculture pursuant to section 4.3 of the regulations governing meat inspection of the United States department of agriculture is exempt from these rules.

(3) (a) Carcasses, and parts of carcasses, and products assumed to be sound, healthy, and wholesome slaughtered on his own farm may be transported by a farmer for processing for his own use provided such carcasses or products are accompanied by a written or printed statement containing the following information:

(i) Date.

(ii) Name and address of the farmer.

(iii) Kind and amount transported.

(iv) Date of slaughter.

(v) Destination.

(b) Each statement shall be numbered and filed for at least 1 year at the establishment processing the meat or meat products.

(c) On arrival at the establishment, each carcass, part carcass, and meat product shall be legibly stamped with edible ink or tagged or labeled for identification. The stamp, tag, or label shall contain the following information:

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(i) Farm dressed, not for sale.
(ii) Establishment number.
(iii) Corresponding number of farmer's statement on file.

(d) The stamp, tag, or label shall be affixed immediately to the carcass, part carcass, or meat product on arrival at the establishment and before it is placed in storage area with other product.

(e) Meat or meat products stamped, tagged, or labeled in accordance with subrule (3) shall not be sold, offered, or exposed to sale.

History: 1954 ACS 46, p. 9, Eff. May 14, 1966.

R 285.148.005 Custom slaughtered meat.

Rule 5. Meats, meat by-products, and meat food products slaughtered and processed as custom slaughtered meat at licensed establishments are subject to all requirements of these rules.

History: 1954 ACS 46, p. 9, Eff. May 14, 1966.

R 285.148.006 Official numbers; subsidiary establishments.

Rule 6. (1) To each establishment granted inspection, an official number shall be assigned. The number shall be used to identify all inspected and passed products prepared in the establishment. Only 1 number shall be assigned to an establishment.

(2) Two or more official establishments under the same ownership or control may be granted the same official number, provided a serial letter is added in each case to identify each establishment and the products of each establishment.

(3) Inspection may be granted to 1 or more persons operating establishments at the same premises. Where multiple inspection is granted to establishments at the same premises, all are jointly and severally responsible for construction, maintenance, and sanitation, and each is responsible for compliance with all the other provisions of these rules.

History: 1954 ACS 46, p. 9, Eff. May 14, 1966.

R 285.148.007 Separation of official from unofficial establishment.

Rule 7. Each official establishment shall be separate and distinct from any other official establishment, from any unofficial establishment in which any product is handled, and from any other unofficial establishment.

History: 1954 ACS 46, p. 9, Eff. May 14, 1966.

R 285.148.008 Living quarters on premises.

Rule 8. Inspections shall not be inaugurated in any building any part of which is used as living quarters unless the part for which inspection is requested is separated from such quarters by floors, walls, and ceilings of solid concrete, brick, or similar material and the floors, walls, and ceilings are without opening that directly or indirectly communicates with any part of the building used as living quarters.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.009 Sanitation and adequate facilities.

Rule 9. Inspection shall not be begun if an establishment is not in a sanitary condition nor unless the establishment agrees to maintain such conditions and provides adequate facilities for conducting such inspection.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

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R 285.148.010 Inauguration of inspection.

Rule 10. When an application for inspection is granted the director shall at or prior to the inauguration of inspection inform the proprietor or operator of the establishment of the requirements of these rules. If the establishment at the time the inspection is inaugurated contains any product which has not previously been inspected, passed and marked in compliance with these rules the identity of the product shall be maintained and it shall not be transported, sold, or offered for sale or otherwise dealt with as inspected and passed under these rules. The establishment shall adopt and enforce all necessary measures and shall comply with all directions as the director may prescribe for carrying out the purposes of this rule.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.011 Withdrawal of inspection for violation of rules.

Rule 11. The director is hereby authorized to withdraw inspection from all official establishments operating within the same premises when requirements for construction and sanitation provided by these rules are not maintained.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.012 Reports of violations of rules.

Rule 12. Inspectors and other department employees shall report to the director and to the administrator of the local meat inspection program all violations and failures under R 285.148.011 of which they have knowledge.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.013 Designation of inspector in charge and assistants.

Rule 13. The director shall designate an inspector in charge of the inspection at each establishment, and assign to the inspector such assistants as may be necessary.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.014 Access to establishments.

Rule 14. For the purpose of any examination or inspection necessary to enforce any of the provisions of these rules, department employees shall have access at all times by day or night whether the establishment is operated or not, to every part of any official establishment to which they are assigned.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.015 Official identification card of inspectors.

Rule 15. Each department employee will be furnished with an official identification card which shall remain in his possession at all times and which he shall wear in such manner and at such times as the director may prescribe. An inspector shall be entitled to admittance at all regular entrances and to all parts of the establishment and premises to which he is assigned upon disclosing only his official identification card for identification.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.016 Assignment of inspectors where members of family employed; soliciting employment.

Rule 16. Except as specifically authorized by the director, no department employee shall be detailed for duty at an establishment where any member of his family is employed by the establishment, nor shall any inspector in charge or other

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employee acting in a supervisory capacity be continued on duty at an official jurisdiction where any member of his family is employed by an establishment under his jurisdiction. Department employees shall not solicit, for any person, employment at any official establishment, or by an officer, manager or employee thereof.

History: 1954 ACS 46, p. 10, Eff. May 14, 1966.

R 285.148.017 Facilities for department employees.

Rule 17. Furnished office room, including light, heat and janitor service, shall be provided by official establishments, rent free, for the use for official purposes of the inspector and other department employees assigned to the establishment. The room or rooms set apart for this purpose shall be approved by the director and shall be conveniently located, properly ventilated, and provided with lockers suitable for the protection and storage of department supplies and with facilities suitable for department employees to change clothing.

History: 1954 ACS 46, p. 11, Eff. May 14, 1966.

R 285.148.018 Hours of operation of official establishments.

Rule 18. Each official establishment shall inform the inspector in charge, or his assistant, when work in each division has been concluded for the day, and of the day and the hour when work will be resumed. Whenever any product is to be rehandled or otherwise handled in an official establishment during unusual hours, the establishment shall, a reasonable time in advance, notify the inspector in charge, or his assistant, of the day and hour when the work will be commenced, and such articles shall not be so handled except after notice has been given. No division of an official establishment shall be operated except after reasonable notice has been given to the inspector in charge. All slaughtering of animals and preparation of products shall be done within reasonable hours, and with reasonable speed, the facilities of the establishment being considered. No shipment of any product shall be made from an official establishment until after due notice has been given to the inspector in charge or his assistant.

History: 1954 ACS 46, p. 11, Eff. May 14, 1966.

R 285.148.019 Designation by inspector in charge of time of operation.

Rule 19. When 1 inspector is detailed to conduct the work at 2 or more official establishments where few animals are slaughtered or where a small quantity of any product is prepared, the director may designate the hours of the day and the days of the week during which such establishments may be operated.

History: 1954 ACS 46, p. 11, Eff. May 14, 1966.

R 285.148.020 Facilities and conditions to be provided by establishment.

Rule 20. When required by the director of agriculture or the inspector in charge, the following facilities and conditions, and such others as may be essential to efficient conduct of inspection and maintenance of sanitary conditions, shall be provided by each official establishment:

(a) Satisfactory pens, equipment, and assistants for conducting ante-mortem inspection and for separating, marking, and holding apart from passed animals those marked "MDA suspect" and those marked "MDA condemned." Pens, alleys, and runways shall be paved, drained, and supplied with adequate hose connections for clean-up purposes. Sufficient light shall be provided for inspection.

(b) Sufficient natural light and abundant artificial light at all places and such times of the day when natural light may not be adequate for proper conduct of

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inspection. Rooms shall be kept sufficiently free of steam and vapors for inspections to be properly made. Equipment or substances which generate gases or odors shall not be used except when specifically permitted by the director of agriculture.

(c) Racks, receptacles, or other suitable devices for retaining such parts as the head, tongue, tail, thymus gland, and viscera, and all parts and blood to be used in the preparation of meat food products or medicinal products, until after the post-mortem examination is completed, in order that they may be identified in case of condemnation of the carcass; equipment, trucks, and receptacles for the handling of viscera of slaughterd animals so as to prevent contact with the floor; and trucks, racks, marked receptacles, tables, or other necessary equipment for the separate and sanitary handling of carcasses or parts passed for cooking.

(d) Tables, benches, and other equipment on which inspection is performed, of such design, material, and construction as to enable department employees to conduct their inspection in a ready, efficient and clean manner.

(e) Watertight metal trucks or receptacles for holding and handling diseased carcasses and parts, so constructed as to be readily cleaned; such trucks or receptacles to be marked in a conspicuous manner with the phrase "MDA condemned" in letters not less than 2 inches high, and, when required by the inspector in charge, to be equipped with facilities for locking or sealing.

(f) Adequate arrangements, including liquid soap and cleansers, for cleansing and disinfecting hands, for sterilizing all implements used in dressing diseased carcasses, floors, and such other articles and places as may be contaminated by diseased carcasses or otherwise.

(g) In establishments in which slaughtering is done, rooms, compartments, or specially prepared open places, to be known as "final inspection places," at which the final inspection of retained carcasses may be conducted. Competent assistants for handling retained carcasses and parts shall be provided by the establishment. Final inspection places shall be adequate in size and their rail arrangement and other equipment shall be sufficient to prevent carcasses and parts, passed for food or cooking, from being contaminated by contact with condemned carcasses or parts. They shall be equipped with hot water, lavatory, sterilizer, tables and other equipment required for ready, efficient, and sanitary conduct of the inspection. The floors shall be of such construction as to facilitate the maintenance of sanitary conditions and shall have proper drainage connections, and when the final inspection place is part of a larger floor, it shall be separated by a curb, railing, or otherwise.

(h) Rooms, compartments, and receptacles in which carcasses and products may be held for further inspection. These shall be in such number and in such locations as the needs of the inspection in the establishment may require. They shall be equipped for secure locking and shall be held under locks furnished by the department, the keys of which shall not leave the custody of department employees. Every such room, compartment, or receptacle shall be marked conspicuously with the phrase "MDA retained" in letters not less than 2 inches high. Rooms or compartments for these purposes shall be secure and susceptible of being kept clean, including a sanitary disposal of the floor liquids.

(i) Adequate facilities, including denaturing materials, for the proper disposal of condemned articles in accordance with these rules. Tanks or other rendering equipment which, under these rules, must be sealed, shall be properly equipped for sealing as may be specified by the director of agriculture.

(j) Docks and receiving rooms, to be designated by the establishment, with the approval of the director, for receipt and inspection of all products as provided in these rules.

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(k) Suitable lockers in which brands bearing the inspection legend shall be kept when not in use. All such lockers shall be equipped for locking with locks to be supplied by the department, the keys of which shall not leave the custody of department employees.

History: 1954 ACS 46, p. 11, Eff. May 14, 1966.

R 285.148.021 Work clothing, implements, and hands.

Rule 21. Inspectors shall furnish their own work clothing and implements, such as knives, steels, flashlights, and triers, for conducting inspection and shall cleanse their hands and implements as prescribed by R 285.148.212.

History: 1954 ACS 46, p. 12, Eff. May 14, 1966.

PART 2. CONSTRUCTION, EQUIPMENT, AND SANITATION

R 285.148.101 Construction; compliance; waiver.

Rule 101. (1) Prior to inauguration of inspection, the director must be satisfied that requirements as to construction and sanitation established by this part are complied with and may order an examination of the premises, equipment and facilities. Complete drawings and specifications for new construction and major alterations of existing premises shall be submitted to the director for approval before construction is begun. Three copies of complete drawings, with specifications, consisting of floor plans showing locations of principal pieces of equipment, floor drains, principal drainage lines, hand-washing basins, and hose connections for clean-up purposes; roof plans; elevations; cross and longitudinal sections of buildings showing principal pieces of equipment, ceiling heights, conveyor rails, character of floors and ceilings; and a plot showing limits of plant's premises, locations in outline of buildings on premises, cardinal points of compass, roadways and railroads serving plant, properly drawn to scale, shall accompany applications for inspection. Applicants may request information from the director concerning requirements before submitting plans.

(2) The director may waive strict compliance with these rules if the cleanliness of the premises and the wholesomeness of the products produced are not adversely affected.

History: 1954 ACS 46, p. 12, Eff. May 14, 1966.

R 285.148.102 Sanitation.

Rule 102. Rooms, compartments, places, equipment, and utensils used for preparing, processing, storing, or otherwise handling any product, and all other parts of the establishment shall be kept in a clean and sanitary condition.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.103 Objectionable materials.

Rule 103. There shall be no handling or storing of materials which create an objectionable condition in the premises.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.104 Light and ventilation.

Rule 104. There shall be abundant light, both natural and artificial, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

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R 285.148.105 Drainage and plumbing.

Rule 105. There shall be an efficient drainage and plumbing system for the establishment and premises. All drains and gutters shall be properly installed with approved traps and vents in accordance with acceptable construction codes, or any local construction or sanitary code, and shall be connected to a sanitary sewer or acceptable disposal system. This discharge of water and waste must conform to the requirements of state law and local ordinance and shall not create a nuisance or be a hazard to public health.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.106 Water supply.

Rule 106. An adequate potable water supply, both hot and cold, delivered under pressure to sufficient convenient outlets for washing carcasses and parts, walls, floors, and equipment shall be available at all times during operation.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.107 Hot water for cleaning certain areas.

Rule 107. An ample supply of water at not less than 180 degrees Fahrenheit shall be furnished and used for the cleaning of equipment, floors, walls, and the like which are subject to contamination in the dressing or handling of diseased carcasses, their viscera and parts.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.108 Hot water for cleaning other areas.

Rule 108. Hot water for cleaning rooms and equipment other than those mentioned in R 285.148.107 shall be delivered under pressure to sufficient convenient outlets and shall be of such temperature as to accomplish a thorough clean-up.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.109 Water pressure.

Rule 109. Water shall be delivered at a minimum pressure of 30 pounds per square inch.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.110 Construction to facilitate cleaning.

Rule 110. The doors, walls, ceilings, partitions, posts, and other parts of structures shall be of such materials, construction, repair, and finish as will make them susceptible of being readily and thoroughly cleaned.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.111 Floors.

Rule 111. Floors shall be watertight and of impervious materials and sloped to drain efficiently.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.112 Window sills.

Rule 112. Window sills shall be sloped to facilitate drainage.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

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R 285.148.113 Rodents, flies, and vermin.

Rule 113. Construction shall render the establishment resistant to the entrance of rodents, flies, and other vermin. The use of poisons for any purpose in rooms or compartments where any unpacked product is stored or handled is forbidden, except under such restrictions and precautions as the director may prescribe. So-called rat viruses shall not be used in any part of an establishment or on the premises.

History: 1954 ACS 46, p. 13, Eff. May 14, 1966.

R 285.148.114 Coved junction floor to wall.

Rule 114. The junction of floors and walls shall be coved to facilitate cleaning and to prevent the accumulation of objectionable material and filth.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

R 285.148.115 Rail height.

Rule 115. Rail height shall be as follows:

(a) Cattle:

(i) Bleeding rail at least 16 feet above the floor.

(ii) Dressing rails at least 11 feet above the floor. When moving-top viscera inspection tables are used, dressing rails must be at least 12 feet 3 inches high.

(b) Hogs, sheep, calves:

(i) Bleeding rails, the top of rail to be at least 11 feet above the floor. If only sheep are handled the bleeding rail may be 9 feet in height.

(ii) Dressing rails shall be of such height so that gambrels or leg hooks are 7½ feet above the floor.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

R 285.148.116 Hand washing facilities.

Rule 116. All slaughtering and processing rooms shall have sufficient conveniently located hand washing facilities of knee-pedal operation or equivalent devices and supplied with hot and cold running water, powdered or liquid soap dispensed from a sanitary container and individual towels.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

R 285.148.117 Dogs and cats.

Rule 117. Dogs and cats shall be excluded from establishments.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

R 285.148.118 Operating and storage rooms; outer premises; nuisances.

Rule 118. All operating and storage rooms and divisions of official establishments used for inedible materials shall be maintained in acceptably clean condition. The outer premises of every official establishment, embracing docks and areas where cars and vehicles are loaded, and the driveways, approaches, yards, pens, and alleys shall be properly paved and drained and kept in clean and orderly condition. All catchbasins on the premises shall be of such construction and location and shall be given such attention as will insure their being kept in acceptable condition as regards odors and cleanliness. Catchbasins shall not be located in divisions where product is prepared, handled, or stored. The accumulation on the premises of establishments of any material in which flies may breed, such as hog hair, bones, paunch contents, or manure, is forbidden. No nuisance shall be allowed in any establishment or on its premises.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

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R 285.148.119 Sanitary facilities and accommodations.

Rule 119. (1) One or more dressing rooms and toilet rooms shall be provided, which shall be conveniently located, have self-closing doors and be properly ventilated and lighted. They shall be separate from the rooms and compartments in which products are prepared, stored, or handled. Where both sexes are employed, separate facilities shall be provided.

(2) Handwashing facilities, including running hot and cold water, liquid or powdered soap dispensed from sanitary containers, and individual towels, shall be placed in or near toilet rooms.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

R 285.148.120 Toilet soil lines.

Rule 120. Establishment toilet soil lines shall be separated from house drainage lines to a point outside the building and drainage from toilet bowls and urinals shall not be discharged into a grease catchbasin.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

R 285.148.121 Storage below sewer lines.

Rule 121. Products shall not be processed, prepared, or stored directly beneath sewer lines, drain pipes, or other system carrying sewage or waste unless such pipelines are leak proof or properly protected by insulating materials or other means.

History: 1954 ACS 46, p. 14, Eff. May 14, 1966.

R 285.148.122 Equipment, construction, and marking.

Rule 122. Equipment must be so constructed as to be easily cleaned, and equipment used for inedible products must be marked.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.123 Tools, equipment, and utensils for handling any product.

Rule 123. Tools, equipment, and utensils used for preparing, processing, and otherwise handling any product shall be of such material and construction as will make them susceptible of being readily and thoroughly cleaned and such as will insure strict cleanliness in the preparation and handling of all products. So far as is practicable, such equipment shall be made of metal or other impervious material. Trucks and receptacles used for inedible material shall be of similar construction and shall bear some conspicuous and distinctive mark, and shall not be used for handling edible products.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.124 Tools, equipment, and utensils; construction; cleaning; storing.

Rule 124. Tools, equipment, and utensils shall be made of nontoxic material, shall be thoroughly cleaned immediately after each day's work, shall be properly stored and protected when not in use, and shall be clean at the time of use. All shroud cloths shall be acceptably clean at time of use.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.125 Scabbards.

Rule 125. Scabbards and similar devices for the temporary retention of knives, steels, and triers by workers and others at inspection establishments shall be

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constructed of rust-resisting metal or other impervious material, shall be of a type that may be readily cleaned, and shall be kept clean.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

PART 3. PROTECTION OF PRODUCT

R 285.148.201 Protection from contamination.

Rule 201. Products shall be protected from contamination at all times during production, preparation, storage, and transportation.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.202 Refrigerated storage temperatures.

Rule 202. Refrigerated storage of adequate capacity shall be provided and maintained at temperatures not to exceed 40 degrees Fahrenheit for fresh meats, carcasses, and parts thereof, and not to exceed 50 degrees Fahrenheit for processed meats, meat by-products, and meat food products.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.203 Vehicles; sanitation.

Rule 203. Vehicles in which products are transported shall be so constructed as to prevent dust, dirt, flies, insects, and other contamination from coming in contact with products and shall be maintained in a clean and sanitary manner. Refrigeration and satisfactory protective coverings for products shall be provided when necessary.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.204 Used tubs, barrels, and boxes.

Rule 204. All used tubs, barrels, and boxes used as containers of products shall be thoroughly cleaned and sanitized before re-use. They shall be of such construction and material as to protect products adequately from dust, dirt, flies, insects, and other contamination, and a satisfactory sanitary liner shall be provided for such used containers where necessary.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.205 Washing before evisceration.

Rule 205. Animals dressed with hides on shall be thoroughly washed and cleaned before evisceration. Washing equipment of an approved type to thoroughly and efficiently wash carcasses inside and out shall be provided.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.206 Storing of hides.

Rule 206. Hides shall not be stored on the killing floor nor stored exposed in rooms or compartments used for edible products.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

R 285.148.207 Storing of carcasses with hides.

Rule 207. Carcasses with hides on shall not be stored in contact with skinned and dressed carcasses or parts thereof or other edible products.

History: 1954 ACS 46, p. 15, Eff. May 14, 1966.

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R 285.148.208 Waste and offensive refuse.

Rule 208. All waste and offensive refuse shall be removed from the premises at least every 24 hours if the establishment is operated continuously or within 24 hours after use if the establishment is used only occasionally. In hot weather the inspector may require removal of waste at more frequent intervals of time. Manure shall not be allowed to accumulate on the premises.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.209 Inedible waste room.

Rule 209. A separate inedible waste room shall be provided for handling and storage of waste containers and covers, waste materials, inedible material, and condemned products. This room shall be so located as to insure no contamination to edible products or congestion in the establishment. Hot and cold running water, proper drainage, and facilities for cleaning the area shall be provided and the area shall be maintained in a clean and sanitary condition. Where necessary it shall be separated from any area in which edible products are handled.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.210 Sanitary operations and procedures.

Rule 210. Operations and procedures involving the preparation, storing, or handling of any product, and all parts of the establishment, shall be kept clean and in sanitary condition. There shall be no handling or storing of materials which create an objectionable condition in rooms, compartments, or places where products are prepared, stored, or otherwise handled.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.211 Slaughter, processing, and storage rooms and compartments.

Rule 211. Rooms and compartments in which animals are slaughtered or any product is processed or prepared shall be kept reasonably free of steam and vapors to enable proper inspections and to insure clean operations. The walls, ceilings, and overhead structures of rooms and compartments in which products are being prepared, handled, or stored shall be kept reasonably free of moisture.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.212 Employees and implements; cleanliness.

Rule 212. Butchers and others who dress or handle diseased carcasses or parts shall cleanse their hands with soap and hot water, rinse them in clean water. Implements used in dressing diseased carcasses shall be thoroughly cleansed in boiling water, or in an approved disinfectant, followed by rinsing in clean water. Employees who handle any product shall keep their hands clean and in all cases, after visiting the toilet rooms or urinals, shall wash their hands before handling any product or the implements used in the preparation of products.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.213 Aprons, frocks, and outer clothing; cleanliness.

Rule 213. Aprons, frocks, and other outer clothing worn by persons who handle any product shall be of material that is readily cleaned and only clean garments shall be worn. Care shall be taken to prevent the contamination of products with perspiration, hair, cosmetics, medicaments, and the like.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

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R 285.148.214 Unsanitary testing and other practices.

Rule 214. Spitting on whetstones, spitting on the floor, placing skewers, tags or knives in the mouth, inflating lungs or casings, or testing with air from the mouth such receptacles as tierces, kegs, casks, and the like containing any product or intended as containers of any product, are prohibited. Only mechanical means may be used for testing.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.215 Smoking or chewing tobacco.

Rule 215. Smoking or chewing of tobacco shall not be permitted in areas where edible products are handled or processed. Signs prohibiting tobacco use shall be conspicuously posted in such areas.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.216 Employment of persons with communicable disease.

Rule 216. No person affected with tuberculosis or other communicable disease in a transmissible stage shall be employed in any division where any product is handled or prepared. The director may require a medical examination of any person handling edible products and a certificate of a duly licensed physician showing the absence of such disease as a condition precedent to such continued employment.

History: 1954 ACS 46, p. 16, Eff. May 14, 1966.

R 285.148.217 Horsemeat.

Rule 217. Horses and other solipeds shall not be slaughtered and horsemeat and meat of other solipeds shall not be processed in establishments in which cattle, calves, sheep, lambs, swine, and goats are slaughtered or processed for human consumption.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

R 285.148.218 Tagging improper facilities and equipment.

Rule 218. Any room, compartment, equipment, or utensils, found by the inspector to be improper, unclean, or insanitary, shall be tagged with a rejection notice. No rejected facility or equipment shall be used until the condition requiring its rejection shall have been corrected. Such a rejection tag shall not be removed by any person other than the director or his duly authorized representative.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

PART 4. ANTE-MORTEM AND POST-MORTEM INSPECTIONS

R 285.148.301 Ante-mortem inspection; pens in public stockyards.

Rule 301. An ante-mortem examination and inspection shall be made of all cattle, calves, sheep, lambs, swine, and goats about to be slaughtered in an official establishment before their slaughter shall be allowed. Inspection shall be made on the day of slaughter. When the holding pens of an official establishment are located in a public stockyard and are reserved for the exclusive use of the establishment, pens shall be regarded as part of the premises of that establishment and the establishment shall be responsible therein for all requirements of these rules.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

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R 285.148.302 Suspect animals; separation and slaughter.

Rule 302. Every animal required to be marked as a suspect on ante-mortem inspection in the pens of an official establishment shall be set apart, and, except as hereinafter provided, shall be slaughtered separately from other animals at that establishment unless disposed of as otherwise provided in these rules.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

R 285.148.303 Animals suspected on ante-mortem inspections.

Rule 303. Any animal which, on ante-mortem inspection, does not plainly show, but is suspected of being affected with, any disease or condition that, under these rules, may cause condemnation of the carcass on post-mortem inspection, and any animal which shows, on ante-mortem inspection, any disease or condition that, under these rules, would cause condemnation of only part of the carcass on post-mortem inspection, shall be so marked as to retain its identity as a suspect until final post-mortem inspection, when the carcass shall be marked and disposed of as provided in these rules.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

R 285.148.304 Marking of suspects.

Rule 304. All animals required by these rules to be treated as suspects, or to be marked as suspects, or to be marked so as to retain their identity as suspects, shall be marked by or under the supervision of a department employee "MDA suspect," or with other distinctive mark or marks to indicate that they are suspects as the director may adopt, such as provided under R 285.148.334. No such mark shall be removed except by a department employee.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

R 285.148.305 Treatment of suspects.

Rule 305. Each animal marked "MDA suspect" on ante-mortem inspection, and animals treated as suspects, as provided under R 285.148.334, when presented for slaughter shall be accompanied with a form approved by the director on which shall be recorded the suspect tag number and any other identifying tag numbers present and a brief description of the animal and of the disease or condition for which the animals was classed as a suspect, including its temperature when the temperature of such animal might have a bearing on the disposition of the carcass on post-mortem inspection.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

R 285.148.306 Animals with high temperatures.

Rule 306. Any swine having a temperature of 106 degrees Fahrenheit or higher and any cattle, calves, sheep, lambs, or goats having a temperature of 105 degrees Fahrenheit or higher shall be marked "MDA condemned." In case of doubt as to the cause of the high temperature, or when for other reasons such action appears warranted, any such animals may be held for a reasonable time, under the supervision of a department employee, for further observation and taking of temperature before final disposition of such animals is determined.

History: 1954 ACS 46, p. 17, Eff. May 14, 1966.

R 285.148.307 Release of suspects.

Rule 307. When any animal tagged "MDA suspect" is released for any purpose or reason, as provided in this part, the tag shall be removed by a department employee.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

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R 285.148.308 Animals with disease or condition requiring condemnation.

Rule 308. All animals plainly showing on ante-mortem inspection any disease or condition that these rules would cause condemnation of their carcasses on post-mortem inspection shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.309 Animals in dying condition.

Rule 309. Animals received for slaughter and found in a dying condition on premises of an official establishment shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.310 Reactors to tuberculin test.

Rule 310. Reactors to the tuberculin test, required by these rules to be condemned, shall be autopsied and the findings made the subject of a special report.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.311 Other conditions.

Rule 311. Any animal found in a comatose or semi-comatose condition or affected with any condition not otherwise covered in this part, which would not warrant release of the animal for slaughter for food shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341 except that such animal may be set apart and held for further observation or treatment under department or other responsible official supervision.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.312 Cripples and downers.

Rule 312. All seriously crippled animals and animals commonly termed "downers," if not marked "MDA condemned" as required elsewhere in these rules shall be marked and treated as suspects in accordance with R 285.148.303 to R 285.148.307.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.313 Immature animals.

Rule 313. Animals which are offered for ante-mortem inspection under this part, and which are regarded as immature, shall be marked "MDA suspect," and, if slaughtered, the disposition of their carcasses shall be determined by the post-mortem findings in connection with the ante-mortem conditions. If not slaughtered as suspects, such animals shall be held under department or other responsible official supervision, and after sufficient development may be released for slaughter.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.314 Animals showing symptoms of certain conditions.

Rule 314. All animals showing on ante-mortem inspection symptoms of anaplasmosis, leptospirosis, listerellosis, parturient paresis, rabies, railroad sickness, or tetanus shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341, except that cattle showing symptoms of anaplasmosis, leptospirosis, listerellosis, parturient paresis, or railroad sickness may be set apart

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and held for treatment under department or other responsible official supervision. If at the expiration of the treatment period, animals upon examination are found to be free from disease, they may be released for slaughter at the official establishment, and shall be marked "MDA suspect."

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.315 Animals reacting to leptospirosis test.

Rule 315. Animals which have reacted to a test for leptospirosis, but which show no symptoms of the disease, shall be marked "MDA suspect."

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.316 Hog affected with cholera.

Rule 316. All hogs plainly showing on ante-mortem inspection that they are affected with hog cholera shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341.

History: 1954 ACS 46, p. 18, Eff. May 14, 1966.

R 285.148.317 Hogs with cholera symptoms.

Rule 317. If a hog has a temperature of 106 degrees Fahrenheit or higher, and is of a lot in which there are symptoms of hog cholera, in case of doubt as to the cause of the high temperature, after being marked for identification, it may be held for a reasonable time, under the supervision of a department employee for further observation and taking of temperature. Any hog so held shall be reinspected on the day it is slaughtered. If, upon such reinspection, or, when not held for further observation and taking of temperature, then on the original inspection, the hog has a temperature of 106 degrees Fahrenheit or higher, it shall be condemned and disposed of in accordance with R 285.148.341.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.318 Hogs in lots with cholera suspects.

Rule 318. All hogs, even though not themselves marked as suspects, which are of lots 1 or more of which have been condemned, or marked as suspects for hog cholera, shall, so far as possible, be slaughtered separately and apart from all other animals passed on ante-mortem inspection.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.319 Hog cholera suspects.

Rule 319. A hog suspected of being affected with hog cholera, if not marked "MDA condemned" shall be marked "MDA suspect" and be released for slaughter.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.320 Swine injected with cholera virus within 28 days.

Rule 320. Swine, other than hyperimmune swine, shall be condemned on ante-mortem inspection if offered for slaughter within 28 days after injection with hog cholera virus.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.321 Swine injected with cholera virus over 28 days.

Rule 321. Swine, other than hyperimmune swine, offered for slaughter after 28 days following injection with hog cholera virus shall be given ante-mortem inspection in conformity with these rules without reference to the injected virus.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

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R 285.148.322 Swine within 10 days of hyperimmunization.

Rule 322. Hyperimmune swine shall be condemned on ante-mortem inspection if offered for slaughter within 10 days after hyperimmunization.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.323 Swine after 10 days of hyperimmunization.

Rule 323. Hyperimmune swine offered for slaughter after 10 days following hyperimmunization shall be given ante-mortem inspection in conformity with these rules without reference to the injected virus.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.324 Epithelioma of the eye of cattle.

Rule 324. Any animal found on ante-mortem inspection to be affected with epithelioma of the eye and of the orbital region in which the eye has been destroyed or obscured by neoplastic tissue and which shows extensive infection, suppuration, and necrosis, usually accompanied with foul odor, or any animal affected with epithelioma of the eye or of the orbital region which, regardless of extent, is accompanied with cachexia shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.325 Suspect of epithelioma of the eye of cattle.

Rule 325. Any animal found on ante-mortem inspection to be affected with epithelioma of the eye or of the orbital region to a lesser extent than in R 285.148.324 shall be marked "MDA suspect" and disposed of as provided in these rules.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.326 Animals affected with anthrax; marking and disposition.

Rule 326. Any animal found on ante-mortem inspection to be affected with anthrax shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.327 Animals in lots infected with anthrax.

Rule 327. No animal of a lot in which anthrax is found on ante-mortem inspection shall be presented for post-mortem inspection until it has been determined by a careful ante-mortem inspection that no infected animal remains in the lot. Apparently healthy animals other than hogs shall be held as provided for in R 285.148.328. If desired, all apparently healthy animals of the lot may be segregated and held for treatment by a competent veterinarian under department or other responsible official supervision. No anthrax vaccine (live organisms) shall be used on the premises of an official establishment.

History: 1954 ACS 46, p. 19, Eff. May 14, 1966.

R 285.148.328 Anthrax; apparently healthy animals; treated animals.

Rule 328. Apparently healthy animals of a lot of cattle, calves, sheep, lambs, or goats in which anthrax is detected, and animals which have been treated with anthrax biologicals which do not contain living anthrax organisms, shall not be presented for post-mortem inspection in less than 21 days following the last treatment or the last death. Treatment with anthrax vaccine (live organisms) must

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be elsewhere than on the official premises and subject to the conditions stated in R 285.148.329.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.329 Treatment of animals reacting to anthrax vaccine.

Rule 329. Animals which have been injected with anthrax vaccines (live organisms) within 6 weeks, and those bearing evidence of reaction to such treatment, such as inflammation, tumefaction, or edema at the site of the injection, shall be condemned on ante-mortem inspection, or such animals may be held under department or other responsible official supervision until the expiration of the 6-week period and the disappearance of any reaction to the treatment.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.330 Anthrax; disinfection when found.

Rule 330. When animals are found on ante-mortem inspection to be affected with anthrax, the cleaning and disinfection of exposed livestock pens and driveways of the official establishment shall consist of promptly and thoroughly removing and burning all straw, litter, and manure. This shall be followed immediately by a thorough disinfection of the exposed premises by soaking the ground, fences, gates, and all exposed material with a 5% solution of sodium hydroxide or commercial lye prepared as outlined in R 285.148.372, or other disinfectant approved by the director specifically for this purpose.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.331 Cattle affected with advanced anasarca or generalized edema.

Rule 331. All cattle found on ante-mortem inspection to be affected with anasarca in advanced stages and characterized by an extensive and generalized edema shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.332 Cattle affected with slight anasarca.

Rule 332. Cattle found on ante-mortem inspection to be affected with anasarca to a lesser extent than in R 285.148.331 shall be marked "MDA suspect" and disposed of as provided in these rules.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.333 Anasarca suspected.

Rule 333. An animal suspected of being affected with anasarca may be set apart and held for treatment under department or other responsible official supervision. If at the expiration of the treatment period the animal upon examination is found to be free from disease, it may be released for slaughter.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.334 Tuberculin test reactors.

Rule 334. Animals which are known to have reacted to the tuberculin test and which are to be slaughtered at an official establishment shall be marked and treated as suspects in accordance with R 285.148.303 to R 285.148.307, except that animals bearing an official "USADE Reactor" or similar state reactor tag should not be tagged "MDA suspect."

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

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R 285.148.335 Swine with acute erysipelas.

Rule 335. All hogs plainly showing on ante-mortem inspection that they are affected with acute swine erysipelas shall be marked "MDA condemned" and disposed of in accordance with these rules.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.336 Swine suspected of erysipelas.

Rule 336. All hogs suspected on ante-mortem inspection of being affected with swine erysipelas shall be marked and treated as suspects and disposed of in accordance with these rules.

History: 1954 ACS 46, p. 20, Eff. May 14, 1966.

R 285.148.337 Swine suspected of erysipelas; treatment.

Rule 337. A hog suspected of being affected with swine erysipelas may be set apart and held under department or other responsible official supervision for treatment. If at the expiration of the treatment period the animal upon examination is found to be free from disease, it may be released for slaughter.

History: 1954 ACS 46, p. 21, Eff. May 14, 1966.

R 285.148.338 Pregnancy or recent parturition.

Rule 338. Any animal showing signs of the onset of parturition shall be withheld from slaughter until after parturition and passage of placenta. Slaughter may then be permitted if the animal is otherwise acceptable.

History: 1954 ACS 46, p. 21, Eff. May 14, 1966.

R 285.148.339 Vaccine animals.

Rule 339. Vaccine animals with unhealed lesions of vaccinia, accompanied with fever, which have not been exposed to any other infectious or contagious disease, are not required to be slaughtered and may be marked "MDA suspect" and held until released for slaughter.

History: 1954 ACS 46, p. 21, Eff. May 14, 1966.

R 285.148.340 Emergency slaughter; prior inspection.

Rule 340. In all cases of emergency slaughter, except as provided in R 285.148.429, the animals shall be inspected immediately before slaughter, whether theretofore inspected or not. When the necessity for emergency slaughter exists, the establishment shall notify the inspector in charge so that such inspection may be made.

History: 1954 ACS 46, p. 21, Eff. May 14, 1966.

R 285.148.341 Disposition of condemned animals.

Rule 341. Except as otherwise provided in this rule, animals marked "MDA condemned" on ante-mortem inspection shall be killed by the official establishment, if not already dead. Such animals shall not be taken into an establishment to be slaughtered or dressed; nor shall they be conveyed into any department of the establishment used for edible products; but they shall be disposed of and tanked in the manner provided for condemned carcasses in R 285.148.506. The "MDA condemned" tag shall not be removed from, but shall remain on, the carcass until it goes into the tank, at which time the tag may be removed by the inspector in charge. The number of such tag shall be reported to the director.

History: 1954 ACS 46, p. 21, Eff. May 14, 1966.

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R 285.148.342 Brucellosis-reactor goats.

Rule 342. Goats which have reacted to a test for brucellosis shall not be slaughtered in an official establishment.

History: 1954 ACS 46, p. 21, Eff. May 14, 1966.

R 285.148.343 Vesicular diseases.

Rule 343. (1) Immediate notification shall be given to the local state and federal livestock sanitary officials having jurisdiction when an animal is found to be affected with a vesicular disease.

(2) No animal under quarantine by state or federal livestock sanitary officials on account of a vesicular disease will be given ante-mortem inspection.

(3) If no quarantine is invoked, or if a quarantine is invoked and later lifted, ante-mortem inspection shall be as follows:

(a) Any animal affected with vesicular exanthema or vesicular stomatitis in the acute stages, as evidence by acute and active lesions or an elevated temperature, shall be marked "MDA condemned" and disposed of in accordance with R 285.148.341.

(b) Any animal affected with vesicular exanthema, or vesicular stomatitis, but which has recovered to the extent that the lesions are in process of healing, the temperature is within normal range, and the animal shows a return to normal appetite and activity, shall be marked "MDA suspect" and disposed of in accordance with R 285.148.303 to R 285.148.307, except that if desired, such animal may be set apart and held under department or other responsible official supervision for treatment. If the animal is set aside for treatment, the "MDA suspect" tag will be removed by a department employee, either when the animal is released for treatment to a responsible official, or, following treatment while under the custody of a department employee if the animal is found to be free from disease. Such animal found to be free from disease may be released for slaughter.

History: 1954 ACS 46, p. 21, Eff. May 14, 1966.

R 285.148.360 Extent and time of port-mortem inspection.

Rule 360. A careful post-mortem examination and inspection shall be made of the carcasses and parts thereof of all cattle, calves, sheep, lambs, swine, and goats slaughtered at official establishments. Inspection and examination shall be made at the time of slaughter, except in cases of emergencies provided for in R 285.148.429.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.361 Organs and parts to be held pending final inspection of carcasses.

Rule 361. The head, tongue, tail, thymus gland, and all viscera, and all parts and blood to be used in the preparation of meat food products or medical products, shall be held in such manner as to preserve their identity until after post-mortem examination has been completed, in order that they may be identified in case the carcass is condemned, passed for cooking, or held for refrigeration.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.362 Carcasses and parts in certain instances to be retained.

Rule 362. Each carcass, including all detached parts and organs, in which any lesion or other condition is found that might render the meat or any part or organ

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unfit for food purposes, and which for that reason would require a subsequent inspection, shall be retained by the inspector at the time of inspection. The identity of every such retained carcass, detached part, and organ thereof shall be maintained until the final inspection has been completed. Retained carcasses shall not be washed or trimmed unless authorized by the inspector.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.363 Identification of carcasses and parts; tagging.

Rule 363. Such devices and methods as may be approved by the director may be used for the temporary identification of retained carcasses, parts, or organs. In all cases the identification shall be further established by affixing "MDA retained" tags as soon as practicable and before final inspection. These tags shall not be removed except by a department employee.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.364 Condemned carcasses and parts; marking; tanking.

Rule 364. Each carcass or part which is found on final inspection to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be conspicuously marked on the surface tissues of all wholesale cuts by a department employee at the time of inspection "MDA inspected and condemned." Condemned detached parts and organs of such character that they cannot be so marked shall be placed immediately in trucks or receptacles which shall be kept plainly marked "MDA inspected and condemned," in letters not less than 2 inches high. All condemned carcasses, parts, and organs shall remain in the custody of a department employee, and shall be tanked as required in these rules at or before the close of the day on which they are condemned.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.365 Carcasses and parts passed for cooking.

Rule 365. Carcasses and parts passed for cooking shall be marked conspicuously on the surface tissues thereof by a department employee at the time of inspection "MDA passed for cooking." All such carcasses and parts shall be cooked in accordance with R 285.148.511 to R 285.148.513 and until so cooked shall remain in the custody of a department employee.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.366 Localized lesions; spermatic cords and pizzles.

Rule 366. (1) In all cases where carcasses showing localized lesions are passed for food or for cooking, the diseased parts shall be removed before the "MDA retained" tag is taken from the carcass, and such parts shall be condemned.

(2) Spermatic cords shall be removed from hog carcasses, and pizzles from all carcasses.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.367 Passing and marking of carcasses and parts.

Rule 367. Carcasses and parts found to be sound, healthful, wholesome, and fit for human food shall be passed and marked as provided in these rules.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

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R 285.148.368 Anthrax carcasses not to be eviscerated.

Rule 368. Carcasses found before evisceration to be affected with anthrax shall not be eviscerated but shall be retained, condemned, and immediately tanked or otherwise disposed of as provided in R 285.148.506.

History: 1954 ACS 46, p. 22, Eff. May 14, 1966.

R 285.148.369 Anthrax carcasses and all parts to be condemned.

Rule 369. All carcasses and all parts, including hides, hoofs, horns, hair, viscera and contents, blood and fat, found to be affected with anthrax shall be condemned and immediately disposed of as provided in R 285.148.506, except that the blood may be handled through the usual blood cooking and drying equipment.

History: 1954 ACS 46, p. 23, Eff. May 14, 1966.

R 285.148.370 Carcass parts contaminated with anthrax to be condemned.

Rule 370. The part of any carcass contaminated with anthrax-infected material through contact with soiled instruments or otherwise shall be immediately condemned and disposed of as provided in R 285.148.506.

History: 1954 ACS 46, p. 23, Eff. May 14, 1966.

R 285.148.371 Anthrax; scalding water and vats.

Rule 371. The scalding vat water through which hog carcasses affected with anthrax have passed shall be immediately drained into the sewer and all parts of the scalding vat shall be cleaned and disinfected as provided in R 285.148.372.

History: 1954 ACS 46, p. 23, Eff. May 14, 1966.

R 285.148.372 Slaughtering department; cleaning and disinfecting when anthrax found.

Rule 372. (1) That portion of the slaughtering division (bleeding area, scalding vat, gambrelling bench, floors, walls, posts, platforms, saws, cleavers, knives, hooks, and the like), as well as employees' boots and aprons contaminated through contact with anthrax-infected material, shall, except as provided in subrule (2), be cleaned immediately and disinfected with 1 of the following disinfectants or other disinfectant approved specifically for this purpose by the director:

(a) A 5% solution of sodium hydroxide or commercial lye containing at least 94% of sodium hydroxide. The solution should be prepared freshly immediately before use by dissolving 2½ pounds of sodium hydroxide or lye in 5½ gallons of hot water and shall be applied as near scalding hot as possible.

(b) A solution of sodium hypochlorite containing approximately ½% of 1% (5,000 parts per million) of available chlorine. The solution shall be freshly prepared.

(c) When a disinfectant solution has been applied to equipment which will afterwards contact meat, the equipment shall be rinsed with clean water before again being used.

(2) In case anthrax infection is found in the hog slaughtering department, an immediate preliminary disinfection shall extend from the head dropper's station to the point where the disease is detected and the affected carcasses shall be cut down and removed from the room. Upon completion of the slaughtering of the lot of hogs of which the anthrax-infected animals were a part, slaughtering operations shall cease, and a thorough cleanup and disinfection shall be made, as provided in subrule (1). If the slaughter of the lot has not been completed by the

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close of the day, the cleanup and disinfection shall not be deferred beyond the close of the day on which anthrax was detected.

(3) Persons who have handled anthrax material shall thoroughly cleanse the hands and arms with liquid soap and running hot water. This step shall be taken immediately after exposure, before vegetative anthrax organisms have had time to form spores. In the cleansing, a brush or other appropriate appliance shall be used to insure the removal of all contaminating material from under and about the fingernails. This process of cleansing shall be performed in repeated cycles of lathering and rinsing. After the hands have been cleansed thoroughly and rinsed free of soap, the inspector may require that the hands be immersed for about 1 minute in a 1:1,000 solution of bichloride of mercury, followed by a thorough rinsing in clean running water. Supplies of bichloride of mercury for this purpose shall be held in the custody of the inspector in charge. As a precautionary measure, all persons exposed to anthrax infection shall report promptly any suspicious condition (sore or carbuncle) or symptom to a physician, in order that anti-anthrax serum or other treatment may be administered as indicated.

History: 1954 ACS 46, p. 23, Eff. May 14, 1966.

R 285.148.373 Skin or hide on carcasses; cleaning; removal.

Rule 373. When a carcass is to be dressed with the skin or hide left on, the skin or hide shall be thoroughly washed and cleaned before any incision is made for the purpose of removing any part thereof or evisceration, except that where calves are slaughtered by the kosher method, the heads shall be removed from the carcasses before washing of the carcasses. The skin shall be removed at the time of post-mortem inspection from any calf carcass infested with the larvae of the "ox-warble" fly (hypoderma lineata and hypoderma bovis).

History: 1954 ACS 46, p. 23, Eff. May 14, 1966.

R 285.148.374 Cleaning of hog carcasses before incising.

Rule 374. All hair, scurf, and dirt, including all hoofs and claws, shall be removed from hog carcasses, and the carcasses thoroughly washed and cleaned before any incision is made for inspection or evisceration.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

R 285.148.375 Sternum; splitting; abdominal and thoracic viscera removal.

Rule 375. The sternum of each carcass shall be split and the abdominal and thoracic viscera removed at the time of slaughter in order to allow proper inspection.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

R 285.148.376 Carcasses not to be inflated; transferring caul or other fat.

Rule 376. Carcasses or parts of carcasses shall not be inflated with air. Transferring the caul or other fat from a fat to a lean carcass is prohibited.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

R 285.148.377 Handling of bruised portions of carcasses.

Rule 377. When only a portion of a carcass is to be condemned on account of slight bruises, either the bruised portion shall be removed immediately and disposed of in accordance with R 285.148.506, or the carcass shall be promptly placed in a retaining room and kept until chilled and the bruised portion then removed and disposed of as provided in these rules.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

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R 285.148.378 Skins from diseased swine; removal; disinfection.

Rule 378. The skins from swine condemned for tuberculosis or any disease communicable to man or other animal may be removed from the establishment, except as provided in R 285.148.368 to R 285.148.372, for tanning or other industrial use; but they shall be removed for these uses only after they have been disinfected. Each skin shall be immersed for not less than 5 minutes in a 5% solution of liquor cresolis compositus, or in a 5% solution of carbolic acid, or shall be otherwise treated as prescribed by the director. The process of skinning and disinfecting shall be conducted in a specially prepared place approved by the inspector in charge, and under the supervision of a department employee.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

R 285.148.379 Hyperimmune swine bled before entering establishments.

Rule 379. Carcasses of hyperimmune swine which have been given the final bleeding at a serum plant under supervision of animal inspection and quarantine division of the United States department of agriculture may be transferred to an official establishment for dressing and post-mortem inspection in accordance with the provisions of this part when authorized by the director. The transfer of such carcasses to the official establishment shall be made as promptly as possible and their delivery to the scalding vat shall be accomplished within 1 hour from the time bleeding is completed. The identity of the carcasses of hyperimmune swine shall be maintained in such manner as to positively identify them and to indicate the time of final bleeding. Procedures for maintaining this identity shall be such as will serve the purposes of the animal inspection and quarantine division and the meat inspection division of the United States department of agriculture. Each day that hyperimmune swine are presented for post-mortem inspection an ante-mortem report form covering such swine shall be rendered by the inspector at the serum plant and furnished the inspector in charge of meat inspection.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

R 285.148.380 Cattle, calf, and sheep lungs.

Rule 380. All cattle, calf, and sheep lungs intended for food purposes shall be inspected to determine whether foreign matter is present in their air passages. The main bronchi and branches shall be slit by employees of the establishment as required by the inspector, and, if ingesta or other objectionable foreign matter has entered these passages, the lungs shall be condemned.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

R 285.148.381 Hog lungs not to be saved as edible.

Rule 381. Hog lungs shall not be saved as edible products.

History: 1954 ACS 46, p. 24, Eff. May 14, 1966.

R 285.148.382 Mammary glands.

Rule 382. Lactating mammary glands and diseased mammary glands of cattle, calves, sheep, lambs, swine, and goats shall be removed without opening the milk ducts or sinuses. If pus or other objectionable material is permitted to come in contact with the carcass, the parts of the carcass thus contaminated shall be removed and condemned.

History: 1954 ACS 46, p. 25, Eff. May 14, 1966.

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R 285.148.383 Cow udders.

Rule 383. Cow udders may be saved for food purposes, provided suitable facilities for handling and inspecting them are provided.

History: 1954 ACS 46, p. 25, Eff. May 14, 1966.

R 285.148.384 Cow udders; inspection.

Rule 384. The inspection of udders from cows which have been kept for breeding purposes only shall consist of examination by palpation and when necessary by incision. The inspection of udders from cows which have been used for dairy purposes shall include slicing in sections about 2 inches in thickness. This slicing shall be done by establishment employees. The udders in the sliced condition shall be given a careful examination by department employees. The inspector will designate the udders which are to be sliced. When there is any doubt as to whether the udder is from a cow which has been used for breeding purposes only, then the udder shall be sliced and inspected as provided for udders from cows used for dairy purposes. Each udder shall be properly identified with its respective carcass and kept separate and apart from other udders until its disposal has been determined, when it may be further handled as the conditions warrant.

History: 1954 ACS 46, p. 25, Eff. May 14, 1966.

R 285.148.385 Cow udders from brucellosis disease reactors.

Rule 385. The udders from cows officially designated as "brucellosis disease reactors" or as "mastitis elimination cows" shall not be utilized for edible purposes.

History: 1954 ACS 46, p. 25, Eff. May 14, 1966.

R 285.148.386 Mammary glands of swine.

Rule 386. Lactating mammary glands of swine intended for edible purposes shall be handled and inspected in the same manner as provided in R 285.148.384 for the udders of cows used for dairy purposes, except that the sliced sections shall be about 1 inch in thickness. Glands that are passed may be distributed as such but their use in meat food products is limited to the preparation of rendered pork fat.

History: 1954 ACS 46, p. 25, Eff. May 14, 1966.

R 285.148.387 Radioactive isotopes; meat from animals treated with.

Rule 387. (1) Meat from animals which have been treated with radioactive isotopes for experimental purposes shall be considered wholesome and eligible to receive the marks of inspection, if otherwise acceptable, under the following conditions.

(2) If the radioactive material is not retained in the treated animal; or in the case of retained material, when decay of radioactivity of the residue has reduced the level of radiation to essentially that of normal background. The determination that essentially background radioactivity has been reached shall be made by a count on an ashed sample using an instrument capable of detecting activity 10% above the background of a similar sample from a control animal, to be measured in the same manner. Each organ and tissue such as muscle and bone intended to be used for food shall be separately tested in a like manner.

(3) The agency which conducts the experimentation shall be equipped to conduct the tests. Certification concerning the results of the tests shall be made by the agency to the appropriate inspector in charge of meat inspection. In any case,

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the inspector in charge shall report in detail to the livestock disease control division, department of agriculture, Lansing, Michigan.

History: 1954 ACS 46, p. 25, Eff. May 14, 1966.

PART 5. DISPOSAL OF DISEASED CARCASSES AND PARTS

R 285.148.401 General provision and doubtful cases.

Rule 401. (1) The carcasses or parts of carcasses of all animals slaughtered at an official establishment and found at the time of slaughter or at any subsequent inspection to be affected with any of the diseases or conditions named in this part shall be disposed of according to the rule pertaining to the disease or condition. The decision as to the disposal of all carcasses, parts, or organs not specifically covered in these rules shall be left to the inspector in charge.

(2) In cases of doubt as to a condition, a disease, or the cause of a condition, or to confirm a diagnosis, representative specimens of the affected tissues properly prepared and packaged should be sent for examination to the laboratory designated by the director.

History: 1954 ACS 46, p. 25, Eff. May 14, 1966.

R 285.148.402 Tuberculosis; principles used in passing on carcasses.

Rule 402. The following principles shall be used in passing on carcasses affected with tuberculosis:

(a) No meat should be passed for food if it contains tubercle bacilli, or if there is a reasonable possibility that it may contain tubercle bacilli, or if it is impregnated with toxic substances of tuberculosis or associated septic infections.

(b) Meat should not be destroyed if the lesions are localized and not numerous, if there is no evidence of distribution of tubercle bacilli through the blood or by other means to the muscles or to parts that may be eaten with the muscles, and if the animal is well nourished and in good condition, since in this case there is no proof, or even reason to suspect, that the flesh is unwholesome.

(c) Evidences of generalized tuberculosis are to be sought in such distribution and number of tuberculosis lesions as can be explained only upon the supposition of the entrance of tubercle bacilli in considerable number into the systemic circulation. Significant of such generalization is the presence of numerous uniformly distributed tubercles throughout both lungs, also tubercles in the spleen, kidneys, bones, joints, and sexual glands, and in the lymph nodes connected with these organs and parts, or in the spleenic, renal, prescapular, popliteal, and inguinal nodes, when several of these organs and parts are coincidentally affected.

(d) Localized tuberculosis is tuberculosis limited to a single or several parts or organs of the body without evidence of recent invasion of numerous bacilli into the systemic circulation.

History: 1954 ACS 46, p. 26, Eff. May 14, 1966.

R 285.148.403 Tuberculosis; disposal of carcasses or parts.

Rule 403. The carcasses of animals affected with tuberculosis shall be disposed of as follows:

(a) The entire carcass shall be condemned if any of the following conditions occur:

(i) When it was observed before the animal was killed that it was suffering with fever.

(ii) When there is a tuberculous or other cachexia.

(iii) When the lesions of tuberculosis are generalized, as shown by their presence not only at the usual seats of primary infection but also in parts of the

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carcass or in the organs that may be reached by the bacilli of tuberculosis only when they are carried in the systemic circulation. Tuberculosis lesions in any 2 of the following-mentioned organs are to be accepted as evidence of generalization when they occur in addition to local tuberculous lesions in the digestive or respiratory tracts, including the connecting lymph glands: spleen, kidney, uterus, udder, ovary, testicle, adrenal gland, and brain or spinal cord of their membranes. Numerous tubercles uniformly distributed throughout both lungs also afford evidence of generalization.

(iv) When the lesions of tuberculosis are found in the muscles or intermuscular tissue or bones or joints, or in the body lymph glands as a result of draining the muscles, bones, or joints.

(v) When the lesions are extensive in 1 or both body cavities.

(vi) When the lesions are multiple, acute, and actively progressive. Evidence of active progress shall be signs of acute inflammation about the lesions or liquefaction necrosis, or the presence of young tubercles.

(b) An organ or a part of a carcass shall be condemned under any of the following conditions:

(i) When it contains lesions of tuberculosis.

(ii) When the lesion is localized but immediately adjacent to the flesh, as in the case of tuberculosis of the parietal pleura or peritoneum. In this case not only the membrane or part affected but also the adjacent thoracic or abdominal wall is to be condemned.

(iii) When it has been contaminated by tuberculosis material through contact with the floor or a soiled knife or otherwise.

(iv) Heads showing lesions of tuberculosis shall be condemned, except that when a head is from a carcass passed for food or for cooking and the lesions are slight, or calcified, or encapsulated, and are confined to lymph glands in which not more than 2 glands are involved, the head may be passed for cooking after the diseased tissues have been removed and condemned.

(v) An organ shall be condemned when the corresponding lymph gland is tuberculous.

(vi) Intestines and mesenteries showing lesions of tuberculosis shall be condemned, but when the lesions are slight and confined to the lymph glands and the carcass is passed without restriction, the intestines may be passed for use as casings and the fat passed for rendering after the corresponding lymph glands have been removed and condemned if the fat and intestines have not been contaminated with tuberculous material.

(c) Carcasses showing lesions of tuberculosis shall be passed for food when the lesions are slight, localized, and calcified or encapsulated, or are limited to a single or several parts or organs of the body, except as noted in subdivision (b), and there is no evidence of recent invasion of tubercle bacilli into the systemic circulation. Carcasses showing such lesions as the following examples may be passed, after the parts containing the lesions are removed and condemned in accordance with subdivision (b):

(i) In the cervical lymph glands and 2 groups if visceral lymph glands in a single body cavity, such as the cervical, bronchial, and mediastinal glands, or the cervical, hepatic, and mesenteric glands.

(ii) In the cervical lymph glands and 1 group of visceral lymph glands and 1 organ in a single body cavity, such as the cervical and bronchial glands and lungs, or the cervical and hepatic glands and the liver.

(iii) In 2 groups of visceral lymph glands and 1 organ in a single body cavity, such as the bronchial and mediastinal glands and the lungs, or the hepatic and mesenteric glands and the liver.

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(iv) In 2 groups of visceral lymph glands in the thoracic cavity and 1 group in the abdominal cavity, or in 1 group of visceral lymph glands in the thoracic cavity and 2 groups in the abdominal cavity, such as the bronchial, mediastinal, and hepatic glands, or the bronchial, hepatic, and mesenteric glands.

(v) In the cervical lymph glands and 1 group of visceral lymph glands in each body cavity, such as the cervical, bronchial, and hepatic glands.

(vi) In the cervical lymph glands and 1 group of visceral lymph glands in each body cavity, together with the liver when the latter contains but few localized foci. In this class of carcasses, which will be chiefly those of hogs, the lesions of the liver are considered to be primary, as the disease is practically always of alimentary origin.

(vii) Carcasses which reveal lesions more severe or more numerous than those described for carcasses to be passed under subdivision (c), but not so severe nor so numerous as the lesions described for carcasses to be condemned under subdivision (a), may be rendered into lard, rendered pork fat, or tallow, or otherwise cooked in accordance with R 285.148.511 to R 285.148.513, if the distribution of the lesions is such that all parts containing tuberculous lesions can be removed.

History: 1954 ACS 46, p. 26, Eff. May 14, 1966.

R 285.148.404 Hog cholera; disposition of carcasses.

Rule 404. (1) The carcasses of all hogs affected with acute hog cholera shall be condemned.

(2) Inconclusive but suspicious symptoms of hog cholera observed during the ante-mortem inspection shall be duly considered in connection with post-mortem findings and when the carcass of such a "suspect" shows lesions in the kidneys and the lymph glands which resemble lesions of hog cholera, they shall be regarded as those of hog cholera and the carcass shall be condemned.

(3) Inasmuch as lesions resembling lesions of hog cholera occur in the kidneys and lymph glands of hogs not affected with hog cholera, carcasses of hogs in the kidneys or lymph glands of which appear any lesions resembling lesions of hog cholera shall be carefully further inspected for corroborative lesions. If on such further inspection the carcass shows such lesions in the kidneys or in the lymph glands or in both, accompanied by characteristic lesions in some organ or tissue, then all lesions shall be regarded as those of hog cholera and the carcass shall be condemned.

History: 1954 ACS 46, p. 27, Eff. May 14, 1966.

R 285.148.405 Carcasses of swine injected with hog cholera virus.

Rule 405. (1) Carcasses of swine, other than hyperimmune swine, if presented for inspection after 28 days following injection with hog cholera virus, shall be given post-mortem inspection in conformity with this part without reference to the injected virus.

(2) Carcasses of hyperimmune swine if presented for inspection after 10 days following hyperimmunization shall be given post-mortem inspection in conformity with this part without reference to the injected virus.

History: 1954 ACS 46, p. 28, Eff. May 14, 1966.

R 285.148.406 Swine erysipelas.

Rule 406. Carcasses affected with swine erysipelas which is acute or generalized, or which show systemic change, shall be condemned.

History: 1954 ACS 46, p. 28, Eff. May 14, 1966.

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R 285.148.407 Diamond-skin disease.

Rule 407. Carcasses of hogs affected with diamond-skin disease when localized and not associated with systemic change may be passed for food after removal and condemnation of the affected parts, provided such carcasses are otherwise in good condition.

History: 1954 ACS 46, p. 28, Eff. May 14, 1966.

R 285.148.408 Arthritis and polyarthritis.

Rule 408. (1) Carcasses affected with arthritis or polyarthritis when localized and not associated with systemic change may be passed for food after removal and condemnation of all affected parts, provided the carcasses are otherwise in good condition. Affected joints with corresponding lymph glands shall be removed and condemned. In order to avoid contamination of the meat which is passed, a joint capsule shall not be opened until after the affected joint is removed.

(2) Carcasses affected with arthritis or polyarthritis characterized by the presence of periarticular abscesses which may or may not be connected with similar suppurative foci within the epiphyses of the bone shall be condemned in cases manifesting suppurative lesions in more than 1 joint. Otherwise, the condemnation shall be restricted to the affected parts if such carcasses are otherwise in good condition.

History: 1954 ACS 46, p. 28, Eff. May 14, 1966.

R 285.148.409 Cattle carcasses with anasarca or generalized edema.

Rule 409. (1) Carcasses of cattle found on post-mortem inspection to be affected with anasarca in advance stages and characterized by an extensive or well-marked generalized edema shall be condemned.

(2) Carcasses of cattle, including their detached parts and organs, found on post-mortem inspection to be affected with anasarca to a lesser extent than in subrule (1) of this rule may be passed for food after removal and condemnation of the affected tissues, provided the lesion is localized.

History: 1954 ACS 46, p. 28, Eff. May 14, 1966.

R 285.148.410 Actinomycosis and actinobacillosis.

Rule 410. (1) The definition of generalization as outlined for tuberculosis in R 285.148.403(1) shall apply for actinomycosis and actinobacillosis, and carcasses of animals so affected shall be condemned.

(2) Carcasses of animals in a well-nourished condition showing uncomplicated localized lesions of actinomycosis or actinobacillosis may be passed after the infected organs or parts have been removed and condemned, except as provided in subrules (3) and (4).

(3) Heads affected with actinomycosis or actinobacillosis, including the tongue, shall be condemned, except that when the disease of the jaw is slight, strictly localized, and without suppuration, fistulous tracts, or lymph gland involvement, the tongue, if free from disease may be passed, or, when the disease is slight and confined to the lymph glands, the head, including the tongue, may be passed after the affected glands have been removed and condemned.

(4) When the disease is slight and confined to the tongue, with or without involvement of the corresponding lymph glands, the head may be passed after removal and condemnation of the tongue and corresponding lymph glands.

History: 1954 ACS 46, p. 28, Eff. May 14, 1966.

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R 285.148.411 Carcasses with certain diseases or conditions.

Rule 411. Carcasses of animals affected with or showing lesions of any of the following-named diseases or conditions shall be condemned:

(a) Anthrax.
(b) Bacillary hemoglobinuria in cattle.
(c) Blackleg.
(d) Hemorrhagic septicemia.
(e) Icterohematuria in sheep.
(f) Malignant epizootic catarrh.
(g) Piroplasmosis.
(h) Pyemia.
(i) Septicemia.
(j) Unhealed vaccine lesions (vaccinia).

History: 1954 ACS 46, p. 29, Eff. May 14, 1966.

R 285.148.412 Malignant neoplasms and metastasis.

Rule 412. Any individual organ or part of a carcass affected with a malignant neoplasm shall be condemned. In case the malignant neoplasm involves any internal organ to a marked extent, or affects the muscles, skeleton, or body lymph glands, even primarily, the carcass shall be condemned, except as provided in R 285.148.413. In case of metastasis to any other organ or part of a carcass, or if metastasis has not occurred but there are present secondary changes in the muscles (serious infiltration, flabbiness, or the like), the carcass shall be condemned. Carcasses of cattle affected with epithelioma of the eye shall be disposed of according to R 285.148.413.

History: 1954 ACS 46, p. 29, Eff. May 14, 1966.

R 285.148.413 Epithelioma of the eye.

Rule 413. (1) Carcasses of animals affected with epithelioma of the eye, of the orbital region, and of the corresponding parotid lymph gland or both shall be condemned in their entirety if 1 of the following 3 conditions exists:

(a) The affection has involved the osseous structures of the head with extensive infection, suppuration, and necrosis;

(b) There is metastasis from the eye, the orbital region, or the corresponding parotid lymph gland to other lymph glands, internal organs, muscles, skeleton, or other structures, regardless of the extent of the primary tumor; or

(c) The affection, regardless of extent, is associated with cachexia or evidence of absorption or secondary changes.

(2) Carcasses of animals affected with epithelioma of the eye, of the orbital region, or of the corresponding parotid lymph gland to a lesser extent than in subrule (1) may be passed for food after removal and condemnation of the head, including the tongue, provided the carcass is otherwise in good condition.

History: 1954 ACS 46, p. 29, Eff. May 14, 1966.

R 285.148.414 Carcasses showing diseases affecting animals' systems.

Rule 414. Carcasses of animals showing any disease such as generalized melanosis, leukemia, pseudo-leukemia, lymphoma, and the like, which affects the system of the animal, shall be condemned.

History: 1954 ACS 46, p. 29, Eff. May 14, 1966.

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R 285.148.415 Abrasions, bruises, tumors, and lesions.

Rule 415. All slight, well-limited abrasions on the tongue and inner surface of the lips and mouth, when without lymph gland involvement, shall be carefully excised, leaving only sound, normal tissue, which may be passed. Any organ or part of a carcass which is badly bruised or which is affected by a tumor, an abscess, or a suppurating sore, shall be condemned; and when the lesions are of such character or extent as to affect the whole carcass, the whole carcass shall be condemned. Parts of carcasses which are contaminated by pus shall be condemned.

History: 1954 ACS 46, p. 29, Eff. May 14, 1966.

R 285.148.416 Localized brucellosis.

Rule 416. Carcasses affected with localized lesions of brucellosis may be passed for food after the affected parts are removed and condemned.

History: 1954 ACS 46, p. 30, Eff. May 14, 1966.

R 285.148.417 Carcasses so infected that consumption may cause food poisoning.

Rule 417. (1) All carcasses of animals so infected that consumption of the products thereof may give rise to food poisoning shall be condemned. This includes all carcasses showing signs of:

(a) Acute inflammation of the lung, pleura, pericardium, peritoneum, or meninges.

(b) Septicemia or pyemia, whether puerperal, traumatic, or without any evident cause.

(c) Gangrenous or severe hemorrhagic enteritis or gastritis.

(d) Acute diffuse metritis or mammitis.

(e) Phlebitis of the umbilical veins.

(f) Septic or purulent traumatic pericarditis.

(g) Any acute inflammation, abscess, or suppurating sore, if associated with acute nephritis, fatty and degenerated liver, swollen soft spleen, marked pulmonary hyperemia, general swelling of lymph glands, diffuse redness of the skin, cachexia, icteric discoloration of the carcass, or the like, either singly or in combination.

(2) Implements contaminated by contact with carcasses affected with any of the diseased conditions mentioned in this rule shall be thoroughly cleaned and disinfected as prescribed elsewhere in these rules. The equipment used in the dressing of such carcasses, such as viscera trucks, inspection tables, and the like, shall be disinfected with hot water having a minimum temperature of 180 degrees Fahrenheit. Carcasses or parts of carcasses contaminated by contact with such diseased carcasses shall be condemned unless all contaminated tissues are removed within 2 hours.

History: 1954 ACS 46, p. 30, Eff. May 14, 1966.

R 285.148.418 Necrobacillosis; pyemia; septicemia.

Rule 418. Necrobacillosis may be regarded as a local affection at the beginning, and carcasses in which the lesions are so localized may be passed for food if in a good state of nutrition, after removing and condemning those portions affected with necrotic lesions. When emaciation, cloudy swelling of the glandular organs, or enlargement and discoloration of the lymph glands are associated with the affection, the entire carcass shall be condemned as both innutritious and noxious. Pyemia or septicemia may intervene as a complication of the local

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necrosis, and when present the carcass shall be condemned in accordance with R 285.148.417.

History: 1954 ACS 46, p. 30, Eff. May 14, 1966.

R 285.148.419 Caseous lymphadenitis.

Rule 419. (1) A thin carcass showing well-marked lesions in the viscera and the skeletal lymph glands, or such a carcass showing extensive lesions in any part shall be condemned.

(2) A thin carcass showing well-marked lesions in the viscera with only slight lesions elsewhere or showing well-marked lesions in the skeletal lymph glands with only slight lesions elsewhere may be passed for cooking.

(3) A thin carcass showing only slight lesions in the skeletal lymph glands and in the viscera may be passed without restriction.

(4) A well-nourished carcass showing well-marked lesions in the viscera and with only slight lesions elsewhere or showing well-marked lesions confined to the skeletal lymph glands with only slight lesions elsewhere may be passed without restriction.

(5) A well-nourished carcass showing well-marked lesions in the viscera and the skeletal lymph glands may be passed for cooking; but where the lesions in a well-nourished carcass are both numerous and extensive, it shall be condemned.

(6) All affected organs and glands of carcasses passed without restriction or passed for cooking shall be removed and condemned. The term "thin" as used in this section shall not be held applicable to a carcass which is anemic or emaciated.

History: 1954 ACS 46, p. 30, Eff. May 14, 1966.

R 285.148.420 Icterus.

Rule 420. Carcasses showing any degree of icterus with a parenchymatous degeneration of organs, the result of infection or intoxication, and those which show an intense yellow or greenish-yellow discoloration without evidence of infection or intoxication, shall be condemned. Carcasses affected with icteric-like discoloration, the result of conditions other than those before stated in this rule, but which lose such discoloration on chilling, shall be passed for food, while those which do not lose such discoloration may be passed for cooking. No carcass retained under this rule may be passed for food unless the final inspection is completed under natural light. Carcasses passed for cooking under this rule shall not be processed other than by rendering.

History: 1954 ACS 46, p. 30, Eff. May 14, 1966.

R 285.148.421 Urine or sexual odor.

Rule 421. Carcasses which give off the odor of urine or a sexual odor shall be condemned. When the final inspection of such carcasses is deferred until they have been chilled, the disposal shall be determined by the heating test.

History: 1954 ACS 46, p. 31, Eff. May 14, 1966.

R 285.148.422 Mange or scab.

Rule 422. Carcasses of animals affected with mange or scab in advance stages, showing cachexia or extensive inflammation of the flesh, shall be condemned. When the disease is slight, the carcass may be passed after removal of the affected portion.

History: 1954 ACS 46, p. 31, Eff. May 14, 1966.

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R 285.148.423 Hogs affected with certain conditions.

Rule 423. Carcasses of hogs affected with urticaria (nettle rash), tinea tonsurans, demodex folliculorum, or erythema may be passed after detaching and condemning the affected skin, if the carcass is otherwise fit for food.

History: 1954 ACS 46, p. 31, Eff. May 14, 1966.

R 285.148.424 Inspection of heads and hearts and final carcass inspection; cattle with tapeworm cysts.

Rule 424. (1) Prior to inspection the tongue shall be detached sufficiently from the head bones, by an employee of the establishment, to allow a proper inspection to be made of the internal muscles of mastication. These muscles shall be inspected after incising them in such manner as to split the muscles in a plane parallel with the lower jawbone. The masseter muscles also shall be incised, splitting the entire external layer between the outer and intermediate fasciae.

(2) The preparation and inspection of hearts shall conform to 1 of the following methods:

(a) The surface of the heart shall be examined, and a longitudinal incision made extending from base to apex through the wall of the left ventricle and the interventricular septum, after which the cut surfaces and the inner surfaces of the ventricles shall be examined.

(b) After the external surface of the heart has been inspected the organ shall be prepared for further inspection by an establishment employee severing its attachments and cutting through the interventricular septum and such other tissues as will permit him to evert the organ completely. The inspector shall then examine the interior surfaces and make not more than 4 deep, lengthwise incisions into the muscles of the septum and left ventricular wall, unless the presence of cysts is suspected, when more incisions shall be made. Under this method care shall be taken not to cut completely through the walls of hearts to be passed without restriction. If necessary to maintain the identity of hearts, the establishment shall provide consecutively numbered tags and appropriately mark the carcasses and hearts.

(3) On final inspection of retained carcasses, the external and internal muscles of mastication, the heart, and the muscular portion of the diaphragm including its pillars, should be carefully and thoroughly sliced to insure the finding of all cysts. Prior to the inspection of the diaphragm its peritoneum shall be removed. The tongue shall be carefully inspected by palpation, and if the presence of cysts in the muscles of this organ is suspected, the tongue shall be thoroughly sliced and all parts closely examined for cysts. In addition to the foregoing, the muscles of the oesophagus, the exposed muscles and cut muscular surfaces of the split carcasses shall be examined. Incisions may be made to expose additional surfaces for examination, but unnecessary mutilation of carcasses which may be passed shall be avoided.

(4) Carcasses of cattle, including the viscera, infested with tapeworm cysts known as cysticercus bovis shall be condemned if the infestation is excessive or if the meat is watery or discolored. Carcasses shall be considered excessively infested if incisions in various parts of the musculature expose on the cut surfaces 2 or more cysts within an area the size of the palm of the hand.

(5) A carcass in which infestation with cysticercus bovis is limited to 1 dead and degenerated cyst may be passed for food after removal and condemnation of the cyst.

(6) Carcasses of cattle showing a slight or moderate infestation other than that indicated in subrule (5) but not so extensive as indicated in subrule (4), as

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determined by a careful examination of the heart, muscles of mastication, diaphragm and its pillars, tongue, and of portions of the carcass rendered visible by the process of dressing, may be passed for food after removal and condemnation of the cysts, with the surrounding tissues if the carcasses and parts, appropriately identified by retained tags, are held in cold storage at a temperature not higher than 15 degrees Fahrenheit continuously for a period of not less than 10 days and if the boned meat from such carcasses when in boxes, tierces, or like containers, appropriately identified by retained tags, is held at a temperature of not higher than 15 degrees Fahrenheit continuously for a period of not less than 20 days. As an alternative to retention in cold storage as provided, such carcasses and parts may be heated throughout to a temperature of at least 140 degrees Fahrenheit.

(7) The edible viscera, (except the lungs, fat and muscles of the oesophagus, and heart, which shall take the same disposition as the carcasses), of carcasses passed for food or for refrigeration under the provisions of subrule (6) may be passed for food without refrigerating or heating, if they are found to be free from infestation upon final inspection. The intestines, weasands, and bladders from beef carcasses affected with cysticercus bovis, which have been passed for food or for refrigeration, may be used for casings after they have been subjected to the usual methods of preparation and may be passed for such purpose upon completion of the final inspection.

(8) The inspection for cysticercus bovis may be omitted in the case of calves under 6 weeks old. The routine inspection of calves over 6 weeks old for cysticercus bovis may be limited to a careful examination of the surface of the heart and such other surfaces as are rendered visible by the process of dressing.

History: 1954 ACS 46, p. 31, Eff. May 14, 1966.

R 285.148.425 Hogs affected with tapeworm cysts.

Rule 425. Carcasses of hogs affected with tapeworm cysts (cysticercus cellulosae) may be passed for cooking, but if the infestation is excessive the carcass shall be condemned.

History: 1954 ACS 46, p. 32, Eff. May 14, 1966.

R 285.148.426 Carcasses with parasites not transmissible to man; sheep carcasses with tapeworm cysts; carcasses with gid bladder worms; organs and parts with hydatid cysts; liver with flukes or tapeworms.

Rule 426. (1) In the disposal of carcasses, edible organs, and parts of carcasses showing evidence of infestation with parasites not transmissible to man, the following general rules shall govern: If the lesions are localized in such manner and are of such character that the parasites and the lesions caused by them may be radically removed, the non-affected portion of the carcass, organ, or part of the carcass may be passed for food after the removal and condemnation of the affected portions. If an organ or a part of a carcass shows numerous lesions caused by parasites, or if the character of the infestation is such that complete extirpation of the parasites and lesions is difficult and uncertainly accomplished, or if the parasitic infestation or invasion renders the organ or part in any way unfit for food, the affected organ or part shall be condemned. If parasites are found to be distributed in a carcass in such a manner or to be of such a character that their removal and the removal of the lesions caused by them is impracticable, no part of the carcass shall be passed for food. If the infestation is excessive the carcass shall be condemned. If the infestation is moderate the carcass may be passed for cooking, but in case such carcass is not cooked as required by R 285.148.511 to R 285.148.513, it shall be condemned.

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(2) In the case of sheep carcasses affected with tapeworm cysts located in the muscles (cysticercus ovis, so-called sheep measles, not transmissible to man), the carcass may be passed after the removal and condemnation of the affected portions if upon the final inspection of sheep carcasses retained on account of measles the total number of cysts found embedded in muscle or in immediate relation with muscular tissue, including the heart, exceeds 5, this shall be taken to indicate that the cysts are so generally distributed and so numerous that their removal would be impracticable, and the entire carcass shall be condemned or passed for cooking, according to the degree of infestation. If not to exceed 5 cysts are found upon final inspection, the carcass may be passed after the removal and condemnation of the affected portions. In cases where sheep pancreatic glands are to be used for edible purposes, the inspectors should adjust their inspection procedures to assure that no tapeworm infested glands are used. Tapeworms in bile duct indicate possible presence of infested glands. These instructions do not apply to pancreatic glands used for pharmaceutical purposes.

(3) Carcasses of animals found infested with gid bladder worms (coenurus cerebralis, multiceps multiceps) may be passed after condemnation of the affected organ (brain or spinal cord).

(4) Organs or parts of carcasses infested with hydatid cysts (echinococcus) shall be condemned.

(5) Livers infested with flukes or fringed tapeworms shall be condemned.

History: 1954 ACS 46, p. 32, Eff. May 14, 1966.

R 285.148.427 Carcasses; emaciated, anemic, with slimy fat degeneration or serous muscular infiltration.

Rule 427. Carcasses of animals too emaciated or anemic to produce wholesome meat, and carcasses which show a slimy degeneration of the fat or a serous infiltration of the muscles, shall be condemned. Mere leanness should not be classed as emaciation.

History: 1954 ACS 46, p. 33, Eff. May 14, 1966.

R 285.148.429 Slaughter of injured animals at unusual hours.

Rule 429. When it is necessary for humane reasons to slaughter an injured animal at night or on Sunday or a holiday when the inspector cannot be obtained, the carcass and all parts shall be kept for inspection, with the head and all viscera except the stomach, bladder, and intestines held by the natural attachments. If all parts are not so kept for inspection, the carcass shall be condemned. If on inspection of a carcass slaughtered in the absence of an inspector any lesion or condition is found indicating that the animal was sick or diseased, or if there is lacking evidence of the condition which rendered emergency slaughter necessary, the carcass shall be condemned.

History: 1954 ACS 46, p. 33, Eff. May 14, 1966.

R 285.148.430 Carcasses of young animals.

Rule 430. Carcasses of young calves, pigs, kids, and lambs are unwholesome and shall be condemned if (a) the meat had the appearance of being water-soaked, is loose and flabby, tears easily, and can be perforated with the fingers; or (b) its color is grayish-red; or (c) good muscular development as a whole is lacking, especially noticeable on the upper shank of the leg, where small amounts of serous infiltrates or small edematous patches are sometimes present between

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the muscles; or (d) the tissue which later develops as the fat capsule of the kidneys is edematous, dirty yellow, or grayish-red, tough and intermixed with islands of fat.

History: 1954 ACS 46, p. 33, Eff. May 14, 1966.

R 285.148.431 Unborn and stillborn animals.

Rule 431. All unborn and stillborn animals shall be condemned and no hide or skin thereof shall be removed from the carcass within a room in which edible products are handled.

History: 1954 ACS 46, p. 33, Eff. May 14, 1966.

R 285.148.432 Animals suffocated and hogs scalded alive.

Rule 432. All animals which have been suffocated in any way and hogs which have entered the scalding vat alive shall be condemned.

History: 1954 ACS 46, p. 33, Eff. May 14, 1966.

R 285.148.433 Livers affected with certain conditions; disposal.

Rule 433. (1) Livers affected with carotenosis shall be condemned.

(2) Cattle livers and calf livers showing the conditions sometimes designated as "telangiectatic," "sawdust," or "spotted," shall be disposed of as follows:

(a) When any or all of the conditions are extensive and involve ½ or more of an organ, the whole organ shall be condemned.

(b) When any or all of the conditions are slight in an organ, the whole organ shall be passed without restriction.

(c) When any or all of the conditions involved the whole organ and are less severe than extensive, but more severe than slight, the whole organ shall be cooked.

(d) When any or all of the conditions are less severe than extensive, but more severe than slight in a portion of an organ, while in the remainder of the organ the conditions are slight, the remainder shall be passed without restriction and the other portion shall be cooked.

(e) When any or all of the conditions are extensive and involve less than ½ of the organ, while in the remainder of the organ the conditions are slight, the remainder shall be passed without restriction and the other portion shall be condemned.

(f) When any or all of the conditions are extensive and involve less than ½ of the organ, while in any or all of the remainder of the organ, the conditions are more severe than slight, yet less severe than extensive, all of the remainder shall be cooked and the extensively involved portion shall be condemned.

(g) The division of an organ into but 2 parts as contemplated in this subrule for disposition, shall be accomplished by one cut through the organ but incisions may be made when necessary for inspection.

(3) Livers and parts of livers which are required to be cooked shall be held and cooked in the establishment where produced. They shall be cooked sufficiently to impart a cooked appearance throughout the liver. After cooking, the liver may be released for any purpose.

History: 1954 ACS 46, p. 33, Eff. May 14, 1966.

R 285.148.434 Vesicular exanthema and vesicular stomatitis.

Rule 434. (1) Any carcass affected with vesicular exanthema or vesicular stomatitis shall be condemned if the condition is acute or if the extent of the condition is such that it affects the entire carcass or there is evidence of absorption or secondary change.

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(2) Any carcass affected with vesicular exanthema or vesicular stomatitis to a lesser extent than in subrule (1) may be passed after removal and condemnation of affected parts, if the carcass is otherwise in good condition.

History: 1954 ACS 46, p. 34, Eff. May 14, 1966.

R 285.148.435 Anaplasmosis of cattle and calves.

Rule 435. (1) Carcasses of cattle and calves found on post-mortem inspection to be affected with anaplasmosis shall be condemned.

(2) Carcasses of cattle and calves which are classed as recovered cases of anaplasmosis evidenced by the absence of abnormal symptoms on ante-mortem inspection but which show slight yellow coloration of tissues on post-mortem examination shall be passed for food provided the yellow coloration disappears on chilling. Those carcasses which do not lose such yellow coloration on chilling shall be condemned.

History: 1954 ACS 46, p. 34, Eff. May 14, 1966.

R 285.148.436 Listerellosis.

Rule 436. Carcasses of animals marked "MDA suspect" because of a history of listerellosis shall be passed for food after condemnation of the head if the carcass is otherwise in good condition.

History: 1954 ACS 46, p. 34, Eff. May 14, 1966.

R 285.148.437 Leptospirosis.

Rule 437. (1) Carcasses of animals affected with leptospirosis shall be condemned.

(2) Carcasses of animals which have reacted to a test for leptospirosis and have been marked "MDA suspect" on ante-mortem inspection shall be passed for food when no evidence of the disease is found on post-mortem examination provided the carcasses are otherwise in good condition.

History: 1954 ACS 46, p. 34, Eff. May 14, 1966.

R 285.148.438 Animals slaughtered without ante-mortem inspection.

Rule 438. No carcass of an animal slaughtered in this state which has not had ante-mortem inspection by a department employee shall be brought into an official establishment, except as provided in R 285.148.004(3) and R 285.148.914.

History: 1954 ACS 46, p. 34, Eff. May 14, 1966.

PART 6. TANKING AND RENDERING

R 285.148.501 Tanks; equipment and space used for inedible products; separation from those used for edible products.

Rule 501. All tanks and equipment used for rendering, preparing, or storing inedible products shall be in rooms or compartments separate from those used for rendering, preparing, or storing edible products. There shall be no connection between rooms or compartments containing inedible products and those containing edible products, exept that there may be one connecting doorway between the slaughtering or viscera separating department and the tank charging room of the inedible products rendering department. Pipes and chutes installed in accordance with the requirements of the director may be used to convey inedible and condemned material from edible product departments to inedible product departments.

History: 1954 ACS 46, p. 34, Eff. May 14, 1966.

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R 285.148.502 Suppression of odors in preparing inedible product.

Rule 502. Tanks, fertilizer driers, and other equipment used in the preparation of inedible product shall be properly equipped with condensers and other appliances which will acceptably suppress odors incident to the preparation.

History: 1954 ACS 46, p. 35, Eff. May 14, 1966.

R 285.148.503 Animals condemned on ante-mortem inspection.

Rule 503. In conveying to the inedible product tank carcasses of animals which have been condemned on ante-mortem inspection, they shall not be taken through rooms or compartments in which product is prepared, handled, or stored.

History: 1954 ACS 46, p. 35, Eff. May 14, 1966.

R 285.148.504 Dead-animal carcasses.

Rule 504. (1) With the exception of dead animals which have died en route and are received with animals for slaughter at an establishment, no dead animal may be brought on the premises of an establishment unless advance permission is obtained from the director.

(2) Under no circumstances shall the carcass of any animal which has died otherwise than by slaughter be brought into any room or compartment in which any product is prepared, handled, or stored.

History: 1954 ACS 46, p. 35, Eff. May 14, 1966.

R 285.148.505 Inedible fats from outside of establishments.

Rule 505. Inedible fats from outside the premises of an official establishment shall not be received except into the tank room provided for inedible products, and then only when their receipt into the tank room produces no insanitary condition on the premises, nor shall such fats be received in such volume as interferes with prompt disposal of inedible or condemned material produced at the establishment. When received, they shall not enter any room or compartment used for edible products.

History: 1954 ACS 46, p. 35, Eff. May 14, 1966.

R 285.148.506 Condemned carcasses and product; disposal by tanking; denaturing of product.

Rule 506. (1) Condemned carcasses and product at official establishments having facilities for tanking shall be disposed of by tanking as follows:

(a) The lower opening of the tank shall first be sealed securely by a department employee except when permanently connected with a blow line, then the condemned carcasses and product shall be placed in the tank in his presence, after which the upper opening shall also be sealed securely by such employee, who shall then see that the contents of the tank are subjected to sufficient heating for sufficient time to effectively destroy the contents for food purposes.

(b) The use of equipment such as crushers or hashers for pre-tanking preparation of condemned carcasses and product in the inedible products department has been found to give inedible character and appearance to the material. Accordingly, if condemned carcasses and product are so crushed or hashed, conveying systems, rendering tanks, and other equipment used in the further handling of the crushed or hashed material need not be locked or sealed during the tanking operation. If the rendering tanks or other equipment contain condemned material not so crushed or hashed, the equipment shall be sealed as prescribed in subdivision (a). If the crushed or hashed material is not rendered in the

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establishment where produced it shall be denatured as provided for in R 285.148.508.

(2) The seals of tanks shall be broken only by a department employee after the contents of the tanks have been treated as provided in subrule (1). The rendered fat derived from condemned material shall be held until a department employee shall have had an opportunity to determine whether it conforms with the requirements of this section. Samples shall be taken by department employees as often as is necessary to determine whether the rendered fat is effectually denatured.

History: 1954 ACS 46, p. 35, Eff. May 14, 1968.

R 285.148.507 Inedible rendered fats.

Rule 507. Rendered animal fat derived from inedible or condemned materials and possessing the physical characteristics of color, odor, and taste of an edible product shall be denatured to effectually distinguish it from an edible product either with low grade offal during the rendering or by adding to, and mixing thoroughly with, such fat denaturing oil, number 2 fuel oil, or brucine dissolved in a mixture of alcohol and pine oil or oil of rosemary.

History: 1954 ACS 46, p. 36, Eff. May 14, 1968.

R 285.148.508 Condemned carcasses and product; disposal if no tanking facilities.

Rule 508. (1) Any carcass or product condemned at an official establishment which has no facilities for tanking shall be denatured with crude carbolic acid, cresylic disinfectant, or other prescribed agent, or be destroyed by incineration, under the supervision of a department employee. When such carcass or product is not incinerated, it shall be slashed freely with a knife before the denaturing agent is applied.

(2) Carcasses and products condemned on account of anthrax, and the materials identified in R 285.148.368 to R 285.148.372 which are derived therefrom at establishments which are not equipped with tanking facilities shall be disposed of by (a) complete incineration, or (b) by thorough denaturing with a prescribed denaturant, and then disposed of in accordance with the requirements of the state or municipal authorities, who shall be notified immediately by the inspector in charge.

History: 1954 ACS 46, p. 36, Eff. May 14, 1968.

R 285.148.509 Specimens for educational, research, and non-food purposes.

Rule 509. (1) Specimens of diseased, condemned, or inedible materials, including embryos and specimens of animal parasites, may be released for educational, research, or other non-food purposes under permit issued by the inspector in charge if the person desiring such specimens makes a written application to such inspector for such permit on an appropriate form and arranges with and receives permission from the official establishment to obtain the specimens. Permits shall be issued for a period not longer than 1 year. The permit may be revoked by the inspector in charge if the specimens are not used as stated in the application, or if the collection or handling of the specimens interferes with inspection or the maintenance of sanitary conditions in the establishment.

(2) The collection and handling of the specimens referred to in subrule (1) shall be at such time and place and in such a manner as not to interfere with the inspection or to cause any objectionable condition.

History: 1954 ACS 46, p. 36, Eff. May 14, 1968.

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R 285.148.510 Livers condemned for certain conditions; disposal as fish feed.

Rule 510. (1) Livers condemned on account of fluke infestation may be forwarded as fish feed if they are first freely slashed, then denatured, and then frozen. The denaturing shall be accomplished by dipping the slashed livers in a hot solution composed of 1 part of FD&C green #3 or methyl violet to 5,000 parts of water, followed by washing in fresh water until the washings are no longer colored, or by the application of finely powdered charcoal. Freezing shall be preceded by chilling the livers to a temperature not above 40 degrees Fahrenheit. Livers packed in containers not more than 7 inches thick shall then be held for a period of not less than 10 days at a temperature not higher than 15 degrees Fahrenheit or for a period of not less than 5 days at a temperature not higher than 10 degrees Fahrenheit. Livers packed in containers over 7 inches but less than 27 inches thick shall be held not less than 20 days at a temperature not higher than 15 degrees Fahrenheit, or for not less than 10 days at a temperature not higher than 10 degrees Fahrenheit. In lieu of freezing, the livers may be thoroughly cooked and then slashed and denatured in the manner indicated above. Livers shall be sufficiently denatured through discoloration by the dye or charcoal to preclude their use as human food. Freezing may be accomplished in the regular freezer in a properly separated compartment or receptacle held under department lock.

(2) Livers condemned on account of hydatids or fringed tapeworms may not be forwarded as fish feed unless thoroughly cooked, slashed, and denatured as indicated in subrule (1).

(3) Livers condemned on account of parasites other than flukes, hydatids, or fringed tapeworms may be forwarded as fish feed without refrigeration or cooking after slashing and denaturing as indicated in subrule (1).

(4) Livers condemned for telangiectasis, angioma, "sawdust" condition, cirrhosis, or other nonmalignant change, benign abscesses, or contamination, when these conditions are not associated with infectious diseases in the carcasses, may be forwarded as fish feed without refrigeration or cooking if all tissue affected with abscesses is removed and destroyed within the establishment and if all livers are slashed and denatured as indicated in subrule (1).

(5) Livers treated in accordance with this rule shall be placed in containers plainly marked "fish feed—inedible" and may be removed from the establishment only under conditions prescribed by the director.

History: 1954 ACS 46, p. 36, Eff. May 14, 1966.

R 285.148.511 Carcasses passed for cooking; rendering.

Rule 511. Carcasses and parts passed for cooking may be rendered into lard or rendered pork fat or rendered into tallow, if the rendering is done in the following manner:

(a) When closed rendering equipment is used, the lower opening, except when permanently connected with a blow line, shall first be sealed securely by a department employee, then the carcasses or parts shall be placed in such equipment in his presence after which the upper opening will be securely sealed by such employee. When the product passed for cooking in the tank does not consist of a carcass or whole primal part, the requirements for sealing shall be at the discretion of the inspector in charge. Carcasses and parts shall be cooked for a time sufficient to render them effectually into lard, rendered pork fat, or tallow, if all parts of the product are heated to a temperature not lower than 170 degrees Fahrenheit for a period of not less than 30 minutes.

(b) Establishments not equipped with closed rendering equipment for rendering carcasses and parts passed for cooking into lard, rendered pork fat, and

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tallow may render such carcasses or parts in open kettles under the direct supervision of a department employee. Rendering shall be done during regular hours of work and in compliance with the requirements as to temperature and time specified in subdivision (a).

History: 1954 ACS 46, p. 37, Eff. May 14, 1966.

R 285.148.512 Carcasses passed for cooking but not rendered; use for food after cooking.

Rule 512. (1) Carcasses and parts passed for cooking, except as specified in R 285.148.420 may be used for the preparation of such products as canned meat, sausage, cooked or boiled meat, meat loaves, and similar products, if all parts of such carcasses and parts which are so used are heated to a temperature not lower than 170 degrees Fahrenheit for a period of not less than 30 minutes, either before being used in or during the preparation of the finished product.

(2) When product passed for cooking is used as an ingredient of a meat food product as contemplated in subrule (1), at least 50% of the meat and meat byproduct ingredient shall consist of product passed for cooking. This requirement shall not apply when the product passed for cooking has been previously cooked as specified in subrule (1) before being used as an ingredient of a meat food product.

History: 1954 ACS 46, p. 37, Eff. May 14, 1966.

R 285.148.513 Product passed for cooking but not handled under R 285.148.511 or R 285.148.512.

Rule 513. Product passed for cooking if not handled and processed under the provisions of R 285.148.511 or R 285.148.512 shall be disposed of in accordance with R 285.148.506 to R 285.148.510.

History: 1954 ACS 46, p. 37, Eff. May 14, 1966.

PART 7. MARKING, BRANDING, AND IDENTIFYING

R 285.148.601 Abbreviations of marks of inspection.

Rule 601. The director may approve and authorize the use of abbreviations of marks of inspection under these rules. Abbreviations shall have the same force and effect as the respective marks for which they are authorized abbreviations.

History: 1954 ACS 46, p. 37, Eff. May 14, 1966.

R 285.148.602 Preparation of marking devices bearing inspection legend.

Rule 602. Except for the purpose of submitting a sample or samples of the same to the director for approval, no person shall procure, make, or prepare, or cause to be procured, made, or prepared, labels, brands, or other marking devices bearing the inspection legend or any abbreviations, copy or representation, for use on any product without the written authority of the director. However, when any sample label, brand, or other marking device is approved by the director, new supplies of such labels and new brands and other marking devices of a character exactly similar to such approved sample may be procured, made, or prepared, for use in accordance with these rules without further approval by the director.

History: 1954 ACS 46, p. 37, Eff. May 14, 1966.

R 285.148.603 Use of inspection legend prohibited except under supervision.

Rule 603. (1) No person shall affix or place, or cause to be affixed or placed, the inspection legend, or any abbreviation, copy, or representation thereof, to or

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on any product, or container except under the supervision of a department employee.

(2) No person shall fill, or cause to be filled, in whole or in part, with any product, any container bearing or intended to bear, the inspection legend, or any abbreviation, copy, or representation thereof, except under the supervision of a department employee.

History: 1954 ACS 46, p. 37, Eff. May 14, 1966.

R 285.148.604 Marking devices; approval; form; control.

Rule 604. (1) Official establishments shall furnish such ink brands, burning brands, and like devices for marking products as the director of the department may require. The mark of inspection on such a device shall be in the following form, as a facsimile of 1 of the official brands, using the size best suited for the purpose intended:



(2) Every such brand and device which bears the inspection legend shall be delivered into the custody of the inspector in charge of the establishment, and shall be used only under the supervision of a department employee. When not in use for marking inspected and passed product, all brands and devices bearing the inspection legend shall be kept locked in properly equipped lockers or compartments, the keys of which shall not leave the possession of a department employee.

History: 1954 ACS 46, p. 38, Eff. May 14, 1966.

R 285.148.605 Unmarked articles not to be removed from establishments.

Rule 605. No person shall remove or cause to be removed from an official establishment any article which these rules require to be marked in any way unless the same is clearly and legibly marked in compliance with these rules.

History: 1954 ACS 46, p. 38, Eff. May 14, 1966.

R 285.148.606 Marks of inspection to be carefully applied.

Rule 606. All marks of inspection shall be carefully applied and securely affixed.

History: 1954 ACS 46, p. 38, Eff. May 14, 1966.

R 285.148.607 Branding ink; furnishing by establishment; approval; color.

Rule 607. (1) Official establishment shall furnish all ink for marking product. Such ink must be made with harmless ingredients that are approved for the

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purpose by the department. Samples of ink shall be submitted to the meat inspection laboratory from time to time as may be deemed necessary by the inspector in charge.

(2) Only purple ink approved for the purpose shall be used to apply ink brands bearing the marks of inspection to carcasses and fresh meat cuts.

History: 1954 ACS 46, p. 39, Eff. May 14, 1966.

R 285.148.608 Control and use of brands and marking devices.

Rule 608. All brands and devices furnished by the establishment for marking articles with the inspection legend, including self-locking seals, shall be used only under the supervision of a department employee, and, when not in use for marking, shall be kept locked in properly equipped lockers or compartments, the keys of which shall not leave the possession of a department employee.

History: 1954 ACS 46, p. 39, Eff. May 14, 1966.

R 285.148.609 Brands and marking devices not to be false or misleading; lettering.

Rule 609. No brand or device shall be false or misleading. The letters and figures shall be of such style and type as will make a clear and legible impression.

History: 1954 ACS 46, p. 39, Eff. May 14, 1966.

R 285.148.610 Carcasses; parts and products; marking.

Rule 610. (1) Each carcass which has been inspected and passed in an official establishment shall be marked at the time of inspection with the inspection legend and with the number of the establishment.

(2) Except as provided otherwise in this subrule, each primal part of a carcass, the beef cod fat and beef kidney fat, and each liver, beef tongue, and beef heart which has been inspected and passed shall be marked with the inspection legend and the number of the establishment before it leaves the establishment in which it is first inspected and passed, and each inspected and passed product susceptible of being marked shall be marked with the inspection legend and the number of the establishment where it was last processed but if skinned bacon intended for slicing need not be so marked if packed in properly marked containers. Additional marks of inspection may be applied as desired to meet local conditions.

(3) Beef livers shall be marked with the inspection legend and the establishment number on the convex surface of the thickest portion of the organ.

(4) Burning brands shall be used to mark offal with the inspection legend.

History: 1954 ACS 46, p. 39, Eff. May 14, 1966.

R 285.148.611 Moving of primal parts between establishments.

Rule 611. Primal parts of carcasses which have been inspected and passed but do not bear the inspection legend may be transported from 1 official establishment to another official establishment, for further processing, in a car, truck, or other closed container, if the car, truck, or container be sealed with a department seal bearing the inspection legend in compliance with these rules.

History: 1954 ACS 46, p. 39, Eff. May 14, 1966.

R 285.148.612 Handling of products unmarkable with brand.

Rule 612. Any product of such character or so small that it cannot be marked with a brand, and which has been inspected and passed but does not bear the

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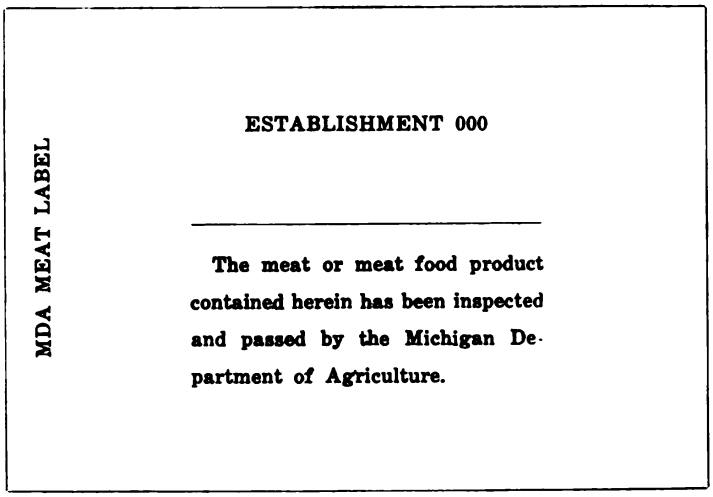
inspection legend, may be removed from an official establishment for local or intrastate transportation in closed containers bearing the inspection legend and such other marks as are required by these rules, or in open containers bearing the inspection legend applied by means of a domestic meat label or trade label. When upon removal from such closed or open containers the product may not be further transported in intrastate commerce unless reinspected by a department employee and packed under his supervision in a container or containers bearing the inspection legend and such other marks as are required by these rules. Unmarked product shall not be brought into an official establishment in an open container, except that which is returned to the establishment, and this must be held separate from other product pending removal from the establishment.

History: 1954 ACS 46, p. 39, Eff. May 14, 1966.

R 285.148.613 Marking of shipping containers; MDA meat label.

Rule 613. (1) Except as provided in this part, when any inspected and passed product for commerce is moved from an official establishment, the shipping container shall bear an approved mark of inspection, an MDA meat label. MDA meat label shall be 2¾ x 4 inches in size and shall be in form and substance as illustrated herein except that the name and address of the establishment, or the name only, may be printed on the label, at the bottom.

MDA MEAT LABEL



The MDA meat label shall be printed with black ink on white paper of good quality, except that in the case of fiberboard shipping containers it may be printed directly on such containers in black ink on any color background, except green, which offers sufficient contrast so that it is prominently and informatively displayed.

(2) When any product prepared in an official establishment for commerce has been inspected and passed and is enclosed in a cloth wrapping, the MDA meat label may be omitted in those cases in which an inspection legend and establishment number on the articles themselves are clearly legible through the wrapping.

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Plain unprinted wrappings such as stockinettes, cheese cloth, paper and crinkled paper bags for properly marked fresh meat, including carcasses and primal parts thereof which are used solely to protect the product against soiling or excessive drying during transportion or storage, need not bear the marks of inspection.

History: 1954 ACS 46, p. 40, Eff. May 14, 1966.

R 285.148.614 Tank cars and tank trucks of edible product.

Rule 614. Each tank car and each tank truck carrying inspected and passed product from an official establishment shall bear a label containing the true names of the product, the inspection legend, the establishment number, and the words, "date of loading," followed by a suitable space for the insertion of the date. The label shall be located conspicuously and shall be printed on material of such character and so affixed as to preclude detachment or effacement upon exposure to the weather. Before the car or truck is removed from the place where it is unloaded, the carrier shall remove or obliterate such label.

History: 1954 ACS 46, p. 40, Eff. May 14, 1966.

R 285.148.615 Treatment and working of inedible fat.

Rule 615. (1) Inedible grease, inedible tallow, or other inedible animal fat, or mixture containing such fat, having the physical characteristics of an edible product shall be denatured or otherwise destroyed for food purposes. Containers of such inedible grease, inedible tallow, or other inedible fat shall be marked conspicuously with the word "inedible." Such containers such as tierces, barrels, and half barrels shall have both ends painted white with durable paint, if necessary, to provide a contrasting background, and the word "inedible" marked thereon in letters not less than 2 inches high, while on tank cars the letters shall be not less than 4 inches high.

(2) Inspected rendered animal fat which for any reason it is desired to classify as inedible may be shipped if handled as provided in subrule (1) for inedible fat having the physical characteristics of an edible product.

(3) Uninspected non-exempt rendered animal fat, or mixtures containing such fat, having the physical characteristics of an edible product, may be shipped if handled as provided in subrule (1) for inedible fat having the physical characteristics of an edible product.

History: 1954 ACS 46, p. 40, Eff. May 14, 1966.

PART 10. MISCELLANEOUS

R 285.148.901 Inspection reports.

Rule 901. Reports of the work of inspection carried on in every official establishment shall be made by the resident department employee to the inspector in charge, and by the inspector in charge to the director or to the person designated by him. Reports will be accomplished on such forms and in such manner as may be specified by the director.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

R 285.148.902 Daily reports.

Rule 902. Department employees shall make daily reports of the amounts of articles handled or prepared in the subdivision of the establishments to which they are assigned and of such other things as the director or inspector in charge may require.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

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R 285.148.903 Retention of records and information for reports.

Rule 903. Each official establishment shall maintain records for a minimum of 2 years and shall furnish to department employees accurate information as to all matters needed by them for making their reports pursuant to R 285.148.902.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

R 285.148.904 Reports on sanitation.

Rule 904. Reports on sanitation shall be made by the resident department employee to the inspector in charge, and by the inspector in charge to the director or to the person designated by him.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

R 285.148.905 Appeals from meat inspection actions.

Rule 905. Any appeal from a decision of an employee of the department shall be made to his immediate superior having jurisdiction over the subject matter of the appeal.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

R 285.148.906 Inspectors in charge; cooperation with other authorities.

Rule 906. Inspectors in charge shall confer with federal, state, municipal, and other local officials at their stations, and inform them of the services under the meat inspection law, what the department is accomplishing in that particular locality, and, in turn, ascertain what is being done by the local officials.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

R 285.148.907 Cooperative arrangements; approval by department.

Rule 907. If it be proposed to adopt a definite cooperative arrangement, the details shall be submitted to and approved by the director before it is put into effect.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

R 285.148.908 Horse slaughtering establishments; inspection.

Rule 908. Every establishment in Michigan, in which horses are slaughtered, for transportation or sale as articles of commerce, or in which carcasses, parts of carcasses, meat, or meat food products of, or derived from, horses are, wholly or in part, canned, cured, smoked, salted, packed, rendered, or otherwise prepared for transportation or sale as articles of commerce which are capable of being used as food for man, shall have inspection under the provisions of these rules.

History: 1954 ACS 46, p. 41, Eff. May 14, 1966.

R 285.148.909 Horse slaughter and preparation of meat; separate establishments.

Rule 909. The slaughter of horses and the preparation and handling of the meat and meat food products shall be conducted in establishments separate and apart from any establishment in which cattle, calves, sheep, lambs, swine, or goats are slaughtered, or the meat or meat food products thereof are prepared or handled.

History: 1954 ACS 46, p. 42, Eff. May 14, 1966.

R 285.148.910 Horses with certain conditions.

Rule 910. (1) All horses found upon either ante-mortem or post-mortem inspection or examination to be affected with strangles, purpura hemorrhagica, azoturia, infectious equine encephalomyelitis, toxic encephalomyelitis (forage poisoning), infectious anemia (swamp fever), dourine, acute influenza, general-

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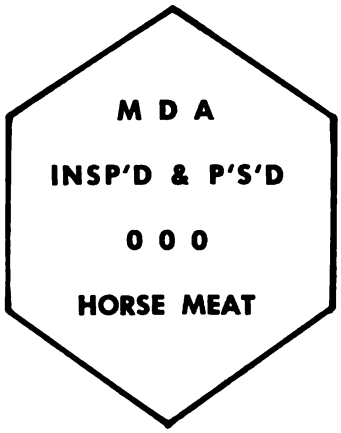
ized osteoporosis, glanders, farcy, or other malignant disorder, acute inflammatory lameness or extensive fistula, shall be condemned.

(2) Any horse which is suspected on ante-mortem inspection of being infected with glanders shall be tested with mallein; and any horse which on physical examination is suspected of being affected with dourine shall be held for further examination or for such test as the director may prescribe.

History: 1954 ACS 46, p. 42, Eff. May 14, 1966.

R 285.148.911 Horse carcasses; meat and products; labeling.

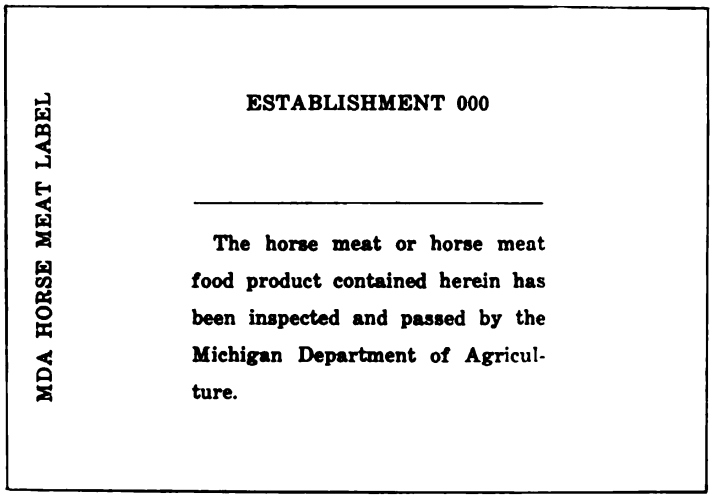
Rule 911. All horse carcasses, parts of carcasses, meat and meat food products thereof shall be conspicuously labeled, marked, branded, or tagged "horse meat" or "horse-meat product." (See illustration.) Only green ink shall be used in branding horse meat and horse-meat product with the mark of inspection.



History: 1954 ACS 46, p. 42, Eff. May 14, 1966.

R 285.148.912 Horse meat and products; labels.

Rule 912. The MDA meat labels for horse meat or meat-food products thereof shall be printed with black ink on light green paper of good quality, shall be 2¾ x 4 inches in size and shall be in form and substance as illustrated below, except that the name and address of the establishment, or the name only, may also be printed on the label, at the bottom.



History: 1954 ACS 46, p. 42, Eff. May 14, 1966.

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R 285.148.913 Horse meat and products; applicability of inspection rules.

Rule 913. All of the provisions of these rules, unless specifically inapplicable, are hereby made applicable to establishments required to have inspection under R 285.148.908, to such inspection service, and to the transportation within this state, of horse meat and horse meat food products, capable of being used as food for man.

History: 1954 ACS 46, p. 42, Eff. May 14, 1966.

R 285.148.914 Other large animals.

Rule 914. Establishments subject to these rules that slaughter or process other large domestic animals or wild game animals that may be used for human food shall do so at a time other than during their regular slaughtering or processing of cattle, calves, sheep, lambs, goats, swine, or horses and other solipeds with the permission of the inspector in charge of the establishment and subject to his requirements. These animals must be skinned before placed in the cooler.

History: 1954 ACS 46, p. 43, Eff. May 14, 1966.

REGULATION NO. 149. APPROVAL OF LOCAL MEAT INSPECTION PROGRAMS

(By authority conferred on the director of agriculture by section 2 of Act No. 280 of the Public Acts of 1965, being §287.572 of the Michigan Compiled Laws)

R 285.149.1 Applications.

Rule 1. (1) Local jurisdictions may apply in writing to the director of agriculture for approval of a local meat inspection program operated under a local ordinance.

(2) The application for approval shall be accompanied by a copy of the ordinance under which the local meat inspection program is promulgated, and such other information as shall be required by the director.

History: 1954 ACS 46, p. 43, Eff. May 14, 1966.

R 285.149.2 Local ordinances.

Rule 2. The requirements of the meat inspection program provided for by such local ordinance shall not be less than the requirements provided by the state meat inspection program.

History: 1954 ACS 46, p. 43, Eff. May 14, 1966.

R 285.149.3 Approval of local programs.

Rule 3. The decision of the director to approve or disapprove a local meat inspection program shall be final, except that if a local meat inspection program is approved initially by the director and the director subsequently finds that the program operated by the local jurisdiction is not carried on in conformity with the requirements of the state meat inspection program, the director may withdraw his approval of such program and cause the state meat inspection program to be initiated in lieu of the local program.

History: 1954 ACS 46, p. 43, Eff. May 14, 1966.

R 285.149.4 Bases for decisions.

Rule 4. The director shall be guided by the following considerations in making his decision to approve or disapprove a local program:

(a) That the local program complies with all the requirements of the state meat inspection program.

(b) The director may require that an audit be made of the local meat inspection program to determine the actual cost of ante-mortem and post-mortem inspections performed including administrative costs.

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(c) That the cost of the local program to be certified for payment from state funds is reasonable.

History: 1954 ACS 46, p. 44, Eff. May 14, 1966.

REGULATION NO. 150. DOGS AND CATS FOR RESEARCH

(By authority conferred on the director of agriculture by section 5 of Act No. 224 of the Public Acts of 1969, being §287.385 of the Michigan Compiled Laws)

PART 1. DEFINITIONS

R 285.150.1 Definitions; A to E.

Rule 1. (1) The definitions in the act are applicable to these rules.

(2) "Act" means Act No. 224 of the Public Acts of 1969, being §§287.381 to 287.395 of the Michigan Compiled Laws.

(3) "Ambient temperature" means the temperature surrounding an animal.

(4) "Dealer" does not include a common carrier transporting dogs and cats for sale to a research facility.

(5) "Division" means the animal health division of the department of agriculture.

(6) "Division representative" means an inspector of the division.

(7) "Euthanasia" means the humane destruction of an animal accomplished by a method involving instantaneous unconsciousness and immediate death or by a method involving anesthesia produced by an agent which causes painless loss of consciousness and death during such loss of consciousness.

History: 1954 ACS 67, p. 10, Eff. Mar. 8, 1971.

R 285.150.3 Definitions; G to P.

Rule 3. (1) "Good moral character" means not having been convicted of a crime other than a minor traffic violation.

(2) "Housing facility" means a room, building, or area used to contain a primary enclosure or enclosures.

(3) "Incompetence" means a demonstrated incapability of a person to understand the requirements of these rules by failure or refusal to conform to such requirements for the care and handling of dogs and cats.

(4) "Licensee" means a person licensed as a dealer pursuant to the act.

(5) "Nonconditioned dogs or cats" means dogs or cats which have not been subjected to special care and treatment for sufficient time to stabilize and, where necessary, to improve their health to make them suitable for research purposes.

(6) "Primary enclosure" means a structure used to immediately restrict 1 or more animals to a limited amount of space, such as a room, pen, run, cage, or compartment.

History: 1954 ACS 67, p. 10, Eff. Mar. 8, 1971.

R 285.150.5 Definitions; R to U.

Rule 5. (1) "Registrant" means a research facility registered pursuant to the act and these rules.

(2) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum agents injurious to health.

(3) "Standards" means the requirements with respect to the humane handling, care, treatment, and transportation of animals by dealers and research facilities as set forth in these rules.

(4) "State veterinarian" means the chief of the division.

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(5) "Untrustworthiness" means that a licensee has failed to meet the requirements for humane care and handling of dogs and cats as set forth herein after having signed the acknowledgement of standards or fails to correct any condition within a reasonable time mutually agreed upon by the director or his representative and the licensee after the need for such correction has been brought to the attention of the licensee in writing.

History: 1954 ACS 67, p. 11, Eff. Mar. 8, 1971.

PART 2. LICENSING, REGISTRATION, ANIMAL TAGS, AND RECORDS

R 285.150.21 Dealers' licenses; applications.

Rule 21. (1) A person operating or desiring to operate as a dealer shall apply for a license on a form furnished upon request by the state veterinarian's office. The completed application form shall be filed with the state veterinarian's office.

(2) A copy of the applicable standards will be supplied with each application for a license and the applicant shall acknowledge receipt of the standards and agree to comply with them by signing a form provided for by the division. The form shall be filed with the application for a license.

(3) An applicant shall demonstrate that his facilities comply with the standards required by these rules. The applicant shall make his facilities available at times mutually agreeable to the applicant and the division for inspection by a division representative for the purpose of ascertaining compliance with the standards. If the applicant's facilities do not comply with the standards, the applicant will be advised of deficiencies and the corrective measures that shall be taken before the facilities will be in compliance with the standards.

History: 1954 ACS 67, p. 11, Eff. Mar. 8, 1971.

R 285.150.22 Notice of changes; effect of suspension or revocation.

Rule 22. (1) A licensee shall notify the state veterinarian promptly of any change in name, address, management, or substantial control or ownership of his business or operation.

(2) A person who has been or is an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed during the period in which the order of suspension or revocation is in effect.

(3) A person whose license has been suspended or revoked shall not again be licensed in his own name or in any other manner during the period in which the order of suspension or revocation is in effect and a partnership, firm, or corporation in which such a person has a substantial financial interest shall not be licensed during such period.

History: 1954 ACS 67, p. 11, Eff. Mar. 8, 1971.

R 285.150.23 Research facilities registration.

Rule 23. (1) A research facility shall register by completing and filing a properly executed form furnished upon request by the state veterinarian. The registration form shall be filed in the office of the state veterinarian. If a school or department of a university or college uses or intends to use dogs or cats for research, tests, or experiments, the university or the college is considered the research facility and shall register. If a school or department is a separate legal entity and its operation and administration are independent of those of the university or college, upon a proper showing thereof to the director, the school or department shall be registered rather than the university or college. A subsidiary

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of a business corporation rather than the parent corporation shall be registered as a research facility unless the subsidiary is under such direct control of the parent corporation that to effectuate the purposes of the act the director determines that it is necessary that the parent corporation be registered.

(2) A copy of the applicable standards shall be supplied with each registration form and the registrant shall acknowledge their receipt and agree to comply with them by signing a form provided by the division. The form shall be filed in the office of the state veterinarian.

(3) A registrant shall notify the state veterinarian promptly of any change in his name or address or any change in his operation which would affect his status as a research facility.

History: 1954 ACS 67, p. 11, Eff. Mar. 8, 1971.

R 285.150.24 Official tags for dogs and cats.

Rule 24. (1) Except as otherwise provided in this rule, when a dealer purchases or otherwise acquires a dog or cat, he shall affix immediately to the animal's neck an official tag of a type approved by the director by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats. An official tag need not be affixed to any dog or cat identified by means of a distinctive and legible tattoo marking acceptable to the director, but if such dog or cat is already identified with an official tag affixed by a previous dealer the purchasing dealer shall not remove the previously attached tag but shall treat it as if he had affixed it himself. Official tags shall be affixed in as near consecutive numerical order as possible. A tag shall not be used to identify more than 1 animal.

(2) When a dealer has been unable, after a reasonable effort, to affix an official tag to an adult cat as set forth in subrule (1) or when the cat exhibits extreme distress from the attachment of a collar and tag, the dealer shall attach the collar and tag to the door of the primary enclosure containing the cat and take proper measures to maintain the identity of the cat in relation to the tag.

(3) An unweaned puppy or kitten need not be individually identified as required in subrule (1) while it is maintained as part of a litter with its dam if she has been so identified.

(4) The official tag shall be made of a durable alloy, such as bronze, brass, or steel, or of a durable plastic. The tag shall be circular in shape and not less than 1¼ inches in diameter. A tag shall be embossed or stamped with "Mich." to identify this state and a number to identify the dealer and a number to identify the animal as set forth in figure 1. The tag shall be serially numbered and a duplication of numbers by any 1 dealer is not permissible within a period of 3 years.

FIGURE 1



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(5) A dealer may obtain at his own expense official tags from a commercial tag manufacturer. When a dealer is issued a license by the director, he will be assigned a dealer identification number to be used on his official tags.

(6) If a dealer is required to be licensed under the federal laboratory animal welfare act, Public Law 89-544, dated August 24, 1966, the use of the official tag prescribed for use by dealers under the federal act is in compliance with these rules for purposes of identification of dogs and cats.

(7) A dealer shall account for all official tags that he acquires. If an official tag is lost from the neck of a dog or cat while in possession of a dealer, a diligent effort shall be made to locate and reapply the tag to the proper animal. If the lost tag is not located, the dealer shall affix another official tag to the animal as prescribed in subrule (1).

(8) When a dog or cat wearing or identified by an official tag arrives at a research facility, the tag shall be removed and retained by the research facility. However, in the discretion of the research facility the tag may be used to continue the identification of such dog or cat.

(9) If a dealer or research facility finds it necessary to dispose humanely of a dog or cat to which is affixed or which is identified by an official tag or upon the death of such a dog or cat from other causes, the dealer or research facility shall remove and retain the tag.

(10) An official tag removed and retained by a dealer or research facility shall be held until called for by a division representative or for a period not to exceed 1 year, whichever is sooner.

History: 1954 ACS 67, p. 12, Eff. Mar. 8, 1971.

R 285.150.25 Dealers' records.

Rule 25. (1) For each dog and cat purchased or otherwise acquired, held, transported, sold, or otherwise disposed of, a dealer shall keep and maintain the following information on the form supplied and in the manner prescribed by the division:

(a) Name and address of the person from whom the animal was acquired and the person to whom it was sold or otherwise disposed of and his license number if licensed as a dealer.

(b) Date of acquisition.

(c) Description and identification of the animal, including the official affixed tag number or tattoo number.

(d) When a dog or cat is sold by a dealer, the method of transportation of the animal, the name of the common carrier, the license number or other identification of the means of conveyance, and the name and address of the driver of the means of conveyance.

(e) Date, nature, and method of disposition; for example, sale, death, euthanasia, or donation.

(2) A dealer shall maintain such records for 2 years and they shall be made available to the director or his representative when deemed necessary by the director.

History: 1954 ACS 67, p. 13, Eff. Mar. 8, 1971.

R 285.150.26 Research facilities' records.

Rule 26. (1) For each dog and cat purchased or otherwise acquired, a research facility shall keep and maintain the following information in the manner prescribed by the division:

(a) Name and address of the person from whom the animal was purchased or acquired and his license number if licensed as a dealer.

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(b) Date of acquisition.

(c) Description and identification of the animal, including the official tag number or tattoo number as affixed and any identification number or letter assigned to the animal by the research facility.

(2) For each dog and cat transported, sold, or otherwise disposed of by a research facility to another person, the research facility shall keep and maintain the following information in the manner prescribed by the division:

(a) Name and address of the person to whom the animal is transported, sold, or otherwise disposed of.

(b) Date of sale or other disposition.

(c) Method of transportation.

(d) Name of the common carrier or the identification of the means of conveyance and the name and address of the driver of the means of conveyance.

(3) A research facility shall maintain its records for 2 years and they shall be made available to the director or his representative when deemed necessary by the director.

History: 1954 ACS 67, p. 13, Eff. Mar. 8, 1971.

R 285.150.27 Retention of records upon notice from director.

Rule 27. When the director notifies a dealer or research facility in writing that specified records shall be retained pending completion of an investigation or proceeding under the act, the dealer or research facility shall hold the records until the director authorizes their disposition.

History: 1954 ACS 67, p. 13, Eff. Mar. 8, 1971.

R 285.150.28 Information; examination of records; inspection of premises.

Rule 28. (1) A dealer or research facility shall furnish to division representatives information concerning the business of the dealer or research facility which may be requested by them in connection with the enforcement of the act and these rules within such reasonable time as specified in the request for information.

(2) A dealer or research facility, upon request during ordinary business hours, shall permit division representatives to enter his place of business, to examine his records required to be kept by the act and these rules, to make copies of such records and to inspect such property and animals as such representatives consider necessary to enforce the provisions of the act and these rules. A room, table, or other facility necessary for the proper examination of such records and inspection of such property or animals shall be furnished to the authorized representatives by the dealer or research facility, his agents, and employees.

(3) A dealer or research facility, upon request during ordinary business hours, shall permit police or law officers of legally constituted law enforcement agencies with general law enforcement authority to enter the place of business of the dealer or research facility to inspect animals and records for the purpose of seeking a missing animal. The police or law officers shall furnish to the dealer or research facility a written description of the missing animal and the name and address of its owner. The police or law officers shall abide by all security measures required by the dealer or research facility to prevent the spread of disease, including the use of sterile clothing, footwear, and masks. The inspection shall not extend to animals undergoing actual research or experimentation, as determined by the research facility.

History: 1954 ACS 67, p. 14, Eff. Mar. 8, 1971.

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R 285.150.29 Compliance with standards and holding periods.

Rule 29. (1) A dealer or research facility shall comply with all standards set forth in parts 3, 4, and 5 for humane handling, care, treatment, and transportation of animals.

(2) When a dealer determines that dogs and cats acquired by him are suffering from disease, emaciation, or injury, he may cause such animals to be destroyed by euthanasia prior to expiration of the 5-day holding period prescribed in the act. If the dealer obtains prior approval of the state veterinarian he may arrange to have another person hold such animals for him for the 5-day period. The other person shall agree in writing to comply with standards in parts 3, 4, and 5 and to allow inspection by division representative of his premises. The dogs and cats shall remain under control of the dealer.

History: 1954 ACS 67, p. 14, Eff. Mar. 8, 1971.

PART 3. FACILITIES AND OPERATIONS

R 285.150.31 Condition and utilities.

Rule 31. (1) A housing facility for dogs or cats shall be structurally sound and be maintained in good repair to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.

(2) Reliable and adequate electric power shall be available when required to comply with other provisions of these rules.

(3) Adequate potable water shall be available.

History: 1954 ACS 67, p. 14, Eff. Mar. 8, 1971.

R 285.150.32 Sanitation.

Rule 32. (1) Supplies of food and bedding shall be stored in facilities which adequately protect them against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(2) Provisions shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors and disease hazards.

(3) Washrooms, basins, or sinks shall be provided to maintain cleanliness of the animal caretakers.

(4) The interior building surfaces of an indoor housing facility shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

(5) A suitable method shall be provided to eliminate rapidly excess water from an indoor housing facility. Drains when used shall be properly constructed and kept in good repair to avoid foul odors therefrom. Closed drainage systems when used shall be equipped with traps and so installed as to prevent any backup of sewerage on the floor of the room.

History: 1954 ACS 67, p. 14, Eff. Mar. 8, 1971.

R 285.150.33 Heating, ventilating, and lighting of indoor facilities.

Rule 33. (1) An indoor housing facility for dogs and cats shall be sufficiently heated when necessary to protect the dogs or cats from cold and to provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50 degrees Fahrenheit for dogs and cats not acclimated to lower temperatures.

(2) An indoor housing facility for dogs or cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facility shall be

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provided with fresh air either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation such as exhaust fans and vents or air conditioning shall be provided when the ambient temperature is 85 degrees Fahrenheit or higher.

(3) An indoor housing facility for dogs or cats shall have ample light of good quality by natural or artificial means or both. The lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Primary enclosures shall be so placed as to protect the dogs or cats from excessive illumination.

History: 1954 ACS 67, p. 15, Eff. Mar. 8, 1971.

R 285.150.34 Shelter provided by outdoor facilities.

Rule 34. (1) When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow dogs and cats kept out of doors to protect themselves from the direct rays of the sun.

(2) An access to shelter shall be provided for dogs and cats kept out of doors to allow them to remain dry during rain or snow.

(3) Shelter shall be provided for dogs and cats kept out of doors when the atmospheric temperature falls below 50 degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which the dog or cat is acclimated.

History: 1954 ACS 67, p. 15, Eff. Mar. 8, 1971.

R 285.150.35 Drainage of outdoor facilities.

Rule 35. A suitable method shall be provided to rapidly eliminate excess water from the area where dogs and cats are kept in an outdoor facility.

History: 1954 ACS 67, p. 15, Eff. Mar. 8, 1971.

R 285.150.36 Primary enclosures.

Rule 36. (1) A primary enclosure shall be structurally sound and maintained in good repair to protect the dogs and cats from injury, to contain them and to keep predators out and shall be constructed and maintained so as to enable the dogs and cats to remain dry and clean.

(2) A primary enclosure shall be constructed and maintained so as to provide sufficient space to allow each dog and cat to turn about freely and to easily stand, sit, and lie in a comfortable normal position.

(3) A primary enclosure shall be constructed and maintained so that dogs and cats kept therein have convenient access to clean food and water.

(4) The floors of a primary enclosure shall be constructed so as to protect the dogs' and cats' feet and legs from injury.

History: 1954 ACS 67, p. 15, Eff. Mar. 8, 1971.

R 285.150.37 Dog space and capacity.

Rule 37. (1) A dog housed in a primary enclosure shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches as measured from the tip of its nose to the base of its tail plus 6 inches expressed in square feet.

(2) Not more than 12 adult nonconditioned dogs shall be housed in the same primary enclosure.

History: 1954 ACS 67, p. 15, Eff. Mar. 8, 1971.

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R 285.150.38 Dog houses with chains.

Rule 38. If dog houses with chains are used as primary enclosures for dogs kept out of doors, the chains shall be so placed or attached that they cannot become entangled with the chains of other dogs, or any other objects. A chain shall be of a type commonly used for the size dog involved and shall be attached to the dog by a well-fitted collar. A chain shall be at least 3 times the length of the dog measured from the tip of its nose to the base of its tail and shall allow the dog convenient access to the dog house.

History: 1954 ACS 67, p. 15, Eff. Mar. 8, 1971.

R 285.150.39 Cats; special provisions.

Rule 39. (1) In an enclosure having a solid floor, a receptacle containing sufficient clean litter shall be provided to contain excreta where cats are housed.

(2) A primary enclosure for cats shall be provided with a solid resting surface or surfaces which, in the aggregate, shall be of adequate size to comfortably hold all occupants of the primary enclosure at the same time. Such resting surface or surfaces shall be elevated in primary enclosures housing 2 or more cats.

(3) An adult cat kept in a primary enclosure shall be provided a minimum of 2½ square feet of floor space.

(4) Not more than 12 adult nonconditioned cats shall be kept in the same primary enclosure.

History: 1954 ACS 67, p. 16, Eff. Mar. 8, 1971.

PART 4. ANIMAL HEALTH AND HUSBANDRY

R 285.150.41 Feeding.

Rule 41. (1) Dogs and cats shall be fed at least once each day except as otherwise required to provide adequate veterinary care. The food shall be free from contamination and shall be wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for condition and size of the animal.

(2) Food receptacles shall be accessible to all dogs or cats and shall be located to minimize contamination by excreta. Feeding pans shall be durable and kept clean. Food receptacles shall be sanitized at least once every 2 weeks. Disposable food receptacles may be used but shall be discarded after each feeding. Self-feeders may be used for the feeding of dry food and shall be sanitized regularly to prevent molding, deterioration, or caking of feed.

History: 1954 ACS 67, p. 16, Eff. Mar. 8, 1971.

R 285.150.42 Watering.

Rule 42. If potable water is not accessible to the dogs and cats at all times, potable liquids shall be offered to them at least twice daily for periods of not less than 1 hour except as otherwise required to provide adequate veterinary care. Watering receptacles shall be kept clean and shall be sanitized at least once every 2 weeks.

History: 1954 ACS 67, p. 16, Eff. Mar. 8, 1971.

R 285.150.43 Cleaning of primary enclosures.

Rule 43. Excreta shall be removed from a primary enclosure as often as necessary to prevent contamination of the dogs or cats kept therein and to reduce disease hazards and odors. When a hosing or flushing method is used for cleaning a primary enclosure, commonly known as a cage, any dog contained therein shall

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be removed from the enclosure during the cleaning process and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

History: 1954 ACS 67, p. 16, Eff. Mar. 8, 1971.

R 285.150.44 Sanitization.

Rule 44. (1) Prior to introduction of nonconditioned dogs or cats into an empty primary enclosure previously occupied, the enclosure shall be sanitized as provided in subrule (3).

(2) A primary enclosure for dogs or cats shall be sanitized often enough to prevent an accumulation of debris or excreta or a disease hazard, but not less than once every 2 weeks as provided in subrule (3).

(3) Cages, rooms, and hard surfaced pens or runs shall be sanitized by washing them with hot water at 180 degrees Fahrenheit and soap or detergent as in a mechanical cage washer or by washing all solid surfaces with a detergent solution followed by a safe and efficient disinfectant or by cleaning all solid surfaces with live steam. Pens or runs using gravel, sand, or dirt shall be sanitized by removing the solid gravel, sand, or dirt and replacing it as necessary.

History: 1954 ACS 67, p. 16, Eff. Mar. 8, 1971.

R 285.150.45 Housekeeping.

Rule 45. (1) All buildings and grounds included in the premises shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in these rules. The premises shall remain free of an accumulation of trash.

(2) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

History: 1954 ACS 67, p. 16, Eff. Mar. 8, 1971.

R 285.150.46 Employees.

Rule 46. A sufficient number of employees shall be used to maintain the prescribed level of husbandry practices set forth in these rules. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

History: 1954 ACS 67, p. 17, Eff. Mar. 8, 1971.

R 285.150.47 Compatible animal groups.

Rule 47. (1) Animals housed in the same primary enclosure shall be maintained in compatible groups.

(2) Females in estrus shall not be housed in the same primary enclosure with males except for breeding purposes.

(3) A dog or cat exhibiting a vicious disposition shall be housed individually in a primary enclosure.

(4) Puppies and kittens shall not be housed in the same primary enclosure with adult dogs or cats other than their dams except when permanently maintained in breeding colonies.

(5) Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed in the same primary enclosure with any other species of animals.

(6) Dogs or cats under quarantine or treatment for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease.

History: 1954 ACS 67, p. 17, Eff. Mar. 8, 1971.

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R 285.150.48 Veterinary care.

Rule 48. Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a doctor of veterinary medicine.

History: 1954 ACS 67, p. 17, Eff. Mar. 8, 1971.

R 285.150.49 Daily observation.

Rule 49. Each dog and cat shall be observed daily by the animal caretaker in charge or by someone under his direct supervision. Sick, diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or humanely disposed of unless such action is inconsistent with the research purposes for which the animal was obtained and is being kept. This rule does not interfere with compliance with a law or ordinance requiring the holding of animals for a specified period when suspected of being infected with a disease.

History: 1954 ACS 67, p. 17, Eff. Mar. 8, 1971.

R 285.150.50 Confiscation and destruction of animals.

Rule 50. If an animal held by a dealer, or an animal held by a research facility which is no longer required by the facility to carry out the research test or experiment for which it has been used, is found by a division representative to be suffering as a result of failure of the dealer or research facility to comply with any provision of the act or these rules, the division representative shall notify the dealer or research facility of the condition of the animal and request that the condition be corrected and that adequate veterinary care be given when necessary to alleviate the animal's suffering or request that it be destroyed by euthanasia. If the dealer or research facility refuses to comply with the request, the division representative, on order of the director, may confiscate and destroy the animal by euthanasia, if the director determines that the circumstances warrant such action.

History: 1954 ACS 67, p. 17, Eff. Mar. 8, 1971.

PART 5. TRANSPORTATION

R 285.150.51 Vehicles.

Rule 51. (1) A vehicle used in transporting dogs or cats shall be mechanically sound and equipped to provide fresh air to all animals being transported without injurious drafts.

(2) The animal cargo space shall be so constructed and maintained as to prevent the entry of exhaust gases from the vehicle's engine.

(3) The interior of the animal cargo space shall be kept clean.

History: 1954 ACS 67, p. 17, Eff. Mar. 8, 1971.

R 285.150.52 Structure and ventilation of primary enclosures.

Rule 52. A primary enclosure, such as a compartment, transport cage, carton, or crate, used to transport dogs or cats shall be well constructed, and well ventilated and designed to protect the health and insure the safety of the animals. The enclosure shall be constructed or positioned in the vehicle so that the animals in the vehicle have access to sufficient air for normal breathing and the openings of such enclosures are easily accessible at all times for emergency removal of the animals.

History: 1954 ACS 67, p. 18, Eff. Mar. 8, 1971.

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R 285.150.53 Protection from elements and temperature.

Rule 53. Animals transported in a primary enclosure shall be afforded adequate protection from the elements. The temperature within the enclosure shall not be allowed to exceed the atmospheric temperature. However, the ambient temperature shall not be allowed to exceed 95 degrees Fahrenheit at any time or to exceed 85 degrees Fahrenheit for a period of more than 4 hours nor be allowed at any time to fall below 45 degrees Fahrenheit unless the animals are acclimated to lower temperatures.

History: 1954 ACS 67, p. 18, Eff. Mar. 8, 1971.

R 285.150.54 Compatible animal groups.

Rule 54. Animals transported in the same primary enclosure shall be of the same species and maintained in compatible groups. Puppies or kittens shall not be transported in the same primary enclosure with adult dogs or cats other than their dams. A dog or cat exhibiting a vicious disposition shall be transported individually in a primary enclosure. A female dog or cat in season or estrus shall not be transported in the same primary enclosure with a male.

History: 1954 ACS 67, p. 18, Eff. Mar. 8, 1971.

R 285.150.55 Space and loading.

Rule 55. (1) A primary enclosure used to transport dogs or cats shall be large enough to insure that each animal kept therein has sufficient space to turn about freely, to stand erect, and to lie in a natural position.

(2) An animal shall not be placed in a primary enclosure over other animals in transit unless the enclosure is fitted with a floor of a material which prevents animal excreta from entering a lower enclosure.

History: 1954 ACS 67, p. 18, Eff. Mar. 8, 1971.

R 285.150.56 Cleaning between shipments.

Rule 56. A primary enclosure used to transport dogs or cats shall be cleaned and sanitized between shipments. Litter in the vehicle shall be cleaned at the beginning of each trip.

History: 1954 ACS 67, p. 18, Eff. Mar. 8, 1971.

R 285.150.57 Stopping, watering, and feeding.

Rule 57. (1) If dogs or cats are transported for a period of more than 12 hours, the vehicle shall stop at least once every 12 hours and remain stopped for a period of at least 1 hour, during which time potable water shall be continuously provided for the dogs and cats.

(2) An adult dog and cat shall be fed at least once in each 24-hour period. Puppies and kittens shall have food made available to them every 6 hours.

(3) A dog shall be removed from the vehicle and given fresh water and an opportunity for exercise if it has been confined in the vehicle for a period of 36 hours.

History: 1954 ACS 67, p. 18, Eff. Mar. 8, 1971.

R 285.150.58 Inspection and veterinary care.

Rule 58. The attendant or driver shall inspect the animals frequently to determine whether they need emergency veterinary care and if so he shall obtain such care at the earliest opportunity.

History: 1954 ACS 67, p. 18, Eff. Mar. 8, 1971.

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REGULATION NO. 151. PET SHOPS, DOG POUNDS, AND ANIMAL SHELTERS

(By authority conferred on the director of agriculture by section 2 of Act No. 287 of the Public Acts of 1969, being §287.332 of the Michigan Compiled Laws)

PART 1. DEFINITIONS AND SCOPE

R 285.151.1 Definitions.

Rule 1. In addition to the definitions in Act No. 287 of the Public Acts of 1969, as used in these rules:

(a) "Act" means Act No. 287 of the Public Acts of 1969, being §287.331 et seq. of the Michigan Compiled Laws.

(b) "Ambient temperature" means the temperature surrounding an animal.

(c) "Department" means the department of agriculture.

(d) "Director" means the director of the department or his authorized representative.

(e) "Euthanasia" means the humane destruction of an animal accomplished by a method involving instantaneous unconsciousness and immediate death, or by a method involving anesthesia produced by an agent which causes painless loss of consciousness and death during such loss of consciousness.

(f) "Housing facility" means a room, building, or area used to contain a primary enclosure or enclosures.

(g) "Incompetence" means the demonstrated incapability of a person to understand the requirements of these rules by failure or refusal to conform to such requirements for the care and handling of dogs and cats.

(h) "Licensee" means a person, corporation, or company licensed as a pet shop pursuant to the act.

(i) "Primary enclosure" means a structure used to immediately restrict 1 or more animals to a limited amount of space, such as a room, pen, run, cage, or compartment.

(j) "Registrant" means a dog pound or animal shelter registered pursuant to the act and these rules.

(k) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum agents injurious to health.

(l) "Standards" means the requirements with respect to the humane handling, care, treatment, and transportation of animals by the licensee and registrant.

History: 1954 ACS 67, p. 19, Eff. Mar. 8, 1971.

R 285.151.2 Scope.

Rule 2. The department may confer with the owner or operator of any pet shop, dog pound, or animal shelter which is licensed under the act at any time necessary in the administration of the act or these rules.

History: 1954 ACS 67, p. 19, Eff. Mar. 8, 1971.

PART 2. LICENSING, REGISTRATION, ANIMAL TAGS, AND RECORDS

R 285.151.11 Pet shop licenses.

Rule 11. (1) A person operating or desiring to operate a pet shop shall apply for a license on a form furnished upon request by the department. The completed application form shall be filed with the department. The license is not transferable.

(2) A copy of the applicable standards shall be furnished with each application for license and the applicant shall acknowledge receipt of the standards and agree to comply with them by signing a form provided for such purpose. The form shall be filed with the application for license.

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(3) An applicant shall demonstrate that his facilities comply with the standards required in these rules. If the applicant's facilities do not comply with the standards, the applicant shall be advised in writing of deficiencies and the corrective measures that shall be taken before facilities will be in compliance with the standards. After January 1, 1971, if the applicant has an existing business and his facilities do not comply with the standards and the applicant has been duly notified as to the corrective measures necessary to comply with the standards, the director may issue a temporary permit to operate such facility for a period of time, to be agreed upon in writing by both parties for the purpose of bringing the facility into compliance. All rules of sanitation shall be complied with as set forth in these rules.

(4) A licensee shall notify the department promptly of any change in name, address, management, or substantial control or ownership of his business or operation.

(5) A person who has been an officer, agent, or employee of the licensee whose license has been suspended or revoked, and who was responsible for, or participated in, the violation upon which the order of suspension or revocation was based, will not be licensed during the period in which the order of suspension or revocation is in effect.

(6) A person whose license has been suspended or revoked shall not again be licensed in his own name or in any other manner during the period in which the order of suspension or revocation is in effect and a partnership, firm, or corporation in which such a person has a substantial financial interest shall not be licensed during such period.

History: 1954 ACS 67, p. 19, Eff. Mar. 8, 1971.

R 285.151.12 Dog pound and animal shelter registrations.

Rule 12. (1) A dog pound or animal shelter shall register with the department by completing and filing a properly executed form furnished by the department upon request. The registration form shall be filed with the department.

(2) A copy of the standards set forth in these rules shall be furnished with each registration form and the registrant shall acknowledge his receipt and agree to comply with them by signing a form provided by the department. The form shall be signed by the chairman of the board of commissioners, city manager, or mayor in the case of a dog pound or by the president of the animal welfare society in the case of an animal shelter.

(3) A registrant shall demonstrate that his facilities comply with the standards required in these rules. If the registrant's facilities do not comply with the standards, the registrant will be advised in writing of deficiencies and the corrective measures that shall be taken before the facilities are in compliance with the standards. After January 1, 1971, if the registrant and his existing facilities do not comply with the standards and the registrant has been duly notified as to the corrective measures necessary to comply with the standards, the director may issue a temporary permit to operate such facility for a period of time, to be agreed upon in writing by both parties for the purpose of bringing the facility into compliance. All rules of sanitation shall be complied with as set forth in these rules.

History: 1954 ACS 67, p. 20, Eff. Mar. 8, 1971.

R 285.151.13 Pet shop, dog pound, and animal shelter records.

Rule 13. (1) For each dog and cat purchased or otherwise acquired, held, transported, sold, or otherwise disposed of, the management shall keep and maintain the following information in a manner prescribed by the department:

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(a) Name and address of the person from whom the animal was acquired and the name and address of the person to whom it was sold or otherwise disposed of.

(b) Date of acquisition.

(c) Description and identification of the animal, including the breed, sex, color, and approximate weight.

(d) Date, nature, and method of disposition; for example, sale, death, euthanasia, or donation.

(2) A pet shop, dog pound, or animal shelter shall maintain such records for 2 years, and they shall be made available to the director or his authorized representative when deemed necessary by the director.

History: 1954 ACS 67, p. 20, Eff. Mar. 8, 1971.

PART 3. FACILITIES AND OPERATIONS

R 285.151.21 Facilities.

Rule 21. (1) A housing facility for dogs or cats shall be structurally sound and maintained in good repair to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.

(2) Adequate potable water shall be available.

History: 1954 ACS 67, p. 20, Eff. Mar. 8, 1971.

R 285.151.22 Sanitation.

Rule 22. (1) Supplies of food and bedding shall be stored in facilities which adequately protect them against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(2) Provisions shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.

(3) Washrooms, basins, or sinks shall be provided to maintain cleanliness of the animal caretakers.

(4) The interior building surfaces of an indoor housing facility shall be constructed of a nonabsorbent material that may be readily sanitized.

(5) A suitable method shall be provided to eliminate excess water from an indoor housing facility. Drains shall be properly constructed and kept in good repair to avoid foul odors therefrom. Closed drainage systems shall be equipped with traps and so installed as to prevent any backup on the floor of the room.

History: 1954 ACS 67, p. 21, Eff. Mar. 8, 1971.

R 285.151.23 Heating, ventilating, and lighting of indoor facilities.

Rule 23. (1) An indoor housing facility for dogs and cats shall be sufficiently heated to protect the dogs and cats from cold and to provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50 degrees Fahrenheit for dogs and cats.

(2) An indoor housing facility for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facility shall be provided with fresh air, either by means of windows, doors, vents, or air conditioning, and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

(3) An indoor housing facility for dogs and cats shall have ample light of good quality by natural or artificial means or both. The lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection and

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cleaning during the entire working period. Primary enclosures shall be so placed as to protect the dogs or cats from excessive illumination.

History: 1954 ACS 67, p. 21, Eff. Mar. 8, 1971.

R 285.151.24 Shelter provided by outdoor facilities.

Rule 24. (1) When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow dogs and cats to protect themselves from the direct rays of the sun.

(2) An access to shelter shall be provided for dogs and cats to allow them to remain dry during rain or snow.

(3) Outside shelters shall be located in an area which has suitable drainage.

History: 1954 ACS 67, p. 21, Eff. Mar. 8, 1971.

R 285.151.25 Primary enclosures.

Rule 25. (1) A primary enclosure shall be structurally sound and maintained in good repair to protect the dogs and cats from injury, to contain them, to keep predators out and enable dogs and cats to remain dry and clean.

(2) A primary enclosure shall provide sufficient space to allow each dog and cat to turn about freely and to easily stand, sit and lie in a comfortable normal position. Where the primary enclosure is used for more than 1 animal, a resting perch for each cat shall be provided.

(3) A primary enclosure shall be constructed and maintained so that dogs and cats kept therein have convenient access to clean food and water.

(4) The floors of a primary enclosure shall be constructed so as to protect the feet and legs of the dogs and cats from injury.

(5) Adequate litter shall be provided for cats.

(6) The number of dogs or cats in a primary enclosure shall not exceed a number which would prevent proper ventilation and sanitation.

(7) Female animals in estrus shall not be housed in the same primary enclosure as male animals.

History: 1954 ACS 67, p. 21, Eff. Mar. 8, 1971.

R 285.151.26 Dog houses with chains.

Rule 26. (1) If dog houses with chains are used as primary enclosures for dogs kept out of doors, the chains shall be so placed or attached that they cannot become entangled with the chains of other dogs, or any other objects. A chain shall be of a type commonly used for the size dog involved and shall be attached to the dog by a well-fitted collar. A chain shall be of such length as to allow exercise and convenient access to the dog house.

(2) Outdoor facilities shall be fenced around the perimeter so that animals cannot escape or other animals gain entrance.

History: 1954 ACS 67, p. 21, Eff. Mar. 8, 1971.

PART 4. ANIMAL HEALTH AND HUSBANDRY

R 285.151.31 Feeding and water.

Rule 31. (1) Dogs and cats shall be fed at least once each day except as otherwise required. The food shall be free from contamination and shall be wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for condition and size of the animal.

(2) Food receptacles shall be accessible to all dogs and cats and shall be located to minimize contamination by excreta. Feeding pans shall be durable and kept

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clean. Disposable food receptacles may be used but shall be discarded after each feeding. Self-feeders may be used for the feeding of dry food and shall be sanitized regularly to prevent molding, deterioration, or caking of food.

(3) If potable water is not accessible to the dogs and cats at all times, potable liquids shall be offered to them at least twice daily for periods of not less than 1 hour except as otherwise required. Watering receptacles shall be kept clean.

History: 1954 ACS 67, p. 22, Eff. Mar. 8, 1971.

R 285.151.32 Cleaning of primary enclosures.

Rule 32. Excreta shall be removed from a primary enclosure as often as necessary to prevent contamination of the dogs or cats kept therein and to reduce disease hazards and odors. When a hosing or flushing method is used for cleaning a primary enclosure, any dog contained therein shall be removed during the cleaning process and adequate measures shall be taken to protect the animals in other enclosures from being contaminated with water and other wastes.

History: 1954 ACS 67, p. 22, Eff. Mar. 8, 1971.

R 285.151.33 Housekeeping.

Rule 33. (1) A primary enclosure for dogs and cats shall be sanitized often enough to prevent an accumulation of debris or excreta or a disease hazard.

(2) All buildings and grounds included in the premises shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in these rules. The premises shall remain free of an accumulation of debris.

(3) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

History: 1954 ACS 67, p. 22, Eff. Mar. 8, 1971.

R 285.151.34 Compatible animal groups.

Rule 34. (1) Animals housed in the same primary enclosure shall be maintained in compatible groups.

(2) A dog or cat exhibiting a vicious disposition shall be housed individually in a primary enclosure.

(3) Puppies and kittens shall not be housed in the same primary enclosure with adult dogs and cats other than their dams.

(4) No 2 species of animals shall be housed in the same primary enclosure.

(5) Dogs and cats exhibiting symptoms of communicable disease shall be separated from all other susceptible species of animals in such a manner as to prevent spread of such disease.

History: 1954 ACS 67, p. 22, Eff. Mar. 8, 1971.

R 285.151.35 Employees.

Rule 35. A sufficient number of employees shall be used to maintain the prescribed level of husbandry practices set forth in these rules.

History: 1954 ACS 67, p. 22, Eff. Mar. 8, 1971.

R 285.151.36 Veterinary services.

Rule 36. (1) The services of a licensed veterinarian shall be available, and his name shall appear on the application for license or registration. The director shall be promptly notified of any change of veterinary service.

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(2) The licensee or registrant shall seek the services of this veterinarian whenever a health hazard arises.

History: 1954 ACS 67, p. 22, Eff. Mar. 8, 1971.

R 285.151.37 Confiscation and destruction of animals.

Rule 37. If an animal held by a dog pound, animal shelter, or pet shop is found by the director to be suffering as a result of failure to provide proper food and water or inhumane treatment by the management of the dog pound, animal shelter, or pet shop, the director may order the animal confiscated or destroyed in a humane manner, if he determines the circumstances warrant such action.

History: 1954 ACS 67, p. 23, Eff. Mar. 8, 1971.

PART 5. TRANSPORTATION

R 285.151.41 Vehicles.

Rule 41. (1) A vehicle used in transporting dogs and cats shall be mechanically sound and equipped to provide fresh air to all animals being transported without injurious drafts or undue exposure to the elements.

(2) The interior of the animal cargo space shall be kept clean.

(3) The vehicle shall not be overcrowded to the extent that it will cause injury to the animals being transported.

(4) Animals transported in the same primary enclosure shall be of the same species and maintained in compatible groups.

(5) Puppies or kittens shall not be transported with adult dogs or cats other than their dams.

(6) A dog or cat exhibiting a vicious disposition shall be transported individually.

(7) A female dog or cat in season or estrus shall not be transported in the same primary enclosure with a male.

History: 1954 ACS 67, p. 23, Eff. Mar. 8, 1971.

REGULATION NO. 152. FEEDLOTS

(By authority conferred on the department of agriculture and the director of the department by section 21a of Act No. 181 of the Public Acts of 1919, as amended, being §287.21a of the Michigan Compiled Laws)

R 285.152.1 Definitions.

Rule 1. (1) "Approved feedlot" means a confined area or enclosure approved by the department and maintained exclusively for the feeding of cattle over 18 months of age under permit as prescribed in section 21a of Act No. 181 of the Public Acts of 1919, as amended, being §287.21a of the Michigan Compiled Laws.

(2) "Department" means the department of agriculture.

(3) "Permit" means the authority to establish an approved feedlot.

(4) "Person" means an individual, partnership, association, or corporation.

History: 1954 ACS 71, p. 18, Eff. May 2, 1972.

R 285.152.2 Permits.

Rule 2. (1) An application for an approved feedlot shall be made in writing to the department and shall contain a description of the premises by county, township, and section number.

(2) A feedlot will not be approved until it has been inspected by the department and found to meet the requirements of Act No. 181 of the Public Acts

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of 1919, as amended, being §§287.2 to 287.24 of the Michigan Compiled Laws, and these rules.

(3) A permit continues in effect until terminated by either party by 15 days' written notice.

History: 1954 ACS 71, p. 18, Eff. May 2, 1972.

R 285.152.3 Buildings and fences.

Rule 3. (1) A building on an approved feedlot shall not have an opening or a connection with another building that would permit contact with other livestock.

(2) If cattle are kept on adjoining premises, the feedlot shall be enclosed by a solid fence such as stone, cement, wood, metal, or other suitable material, at least 5 feet high, or by 2 parallel fences, 1 of which shall be 47 inches high of woven wire with 6-inch stay wires and a barbed wire 6 inches above the woven wire. The second fence shall be at least 6 feet outside the woven wire and may be constructed of 4 strands of barbed wire or wire cable uniformly spaced, or an enclosure approved by the department. The fence shall be adequate to prevent contact or commingling of feeder cattle with other livestock. The fence shall be maintained in good repair at all times.

History: 1954 ACS 71, p. 18, Eff. May 2, 1972.

R 285.152.4 Sanitation and drainage.

Rule 4. (1) An approved feedlot shall be maintained in a reasonably sanitary condition free from accumulation of manure or waste materials. Other livestock shall not have access to manure or other waste materials removed from the feedlot.

(2) Drainage from a feedlot shall not be permitted to flow into pastures, streams, lakes, other bodies of water, or areas to which other livestock have access.

History: 1954 ACS 71, p. 18, Eff. May 2, 1972.

R 285.152.5 Animals permitted on feedlots.

Rule 5. (1) A feedlot shall be maintained exclusively for the feeding of cattle quarantined to the premises. Offspring of feeding cattle shall be under quarantine the same as the parent cattle and be identified the same as the parent cattle.

(2) A feedlot shall not contain dairy or breeding cattle on the same premises.

History: 1954 ACS 71, p. 18, Eff. May 2, 1972.

R 285.152.6 Identification of animals.

Rule 6. Cattle maintained in an approved feedlot shall be identified with a red plastic tag with consecutive numbers on the top and the word "feeder" on the bottom and a notch in the lower part of the right ear. Identification shall be made before cattle are commingled with other feeder cattle in the approved feedlot.

History: 1954 ACS 71, p. 18, Eff. May 2, 1972.

R 285.152.7 Period of confinement of animals.

Rule 7. An animal shall not stay in an approved feedlot for more than 6 months.

History: 1954 ACS 71, p. 19, Eff. May 2, 1972.

R 285.152.8 Sale of cattle.

Rule 8. (1) Cattle from an approved feedlot shall be sold for slaughter or to another feedlot.

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(2) Cattle from a feedlot may be sold through a livestock auction when sold for slaughter only.

(3) Cattle from a feedlot may be sold to another approved feedlot under special permit approved and issued by the department.

History: 1954 ACS 71, p. 19, Eff. May 2, 1972.

R 285.152.9 Death of animals.

Rule 9. If an animal dies in an approved feedlot, the operator shall remove the ear which contains the tag number and keep it refrigerated until the lot is inspected by the department and the death of the animal is verified.

History: 1954 ACS 71, p. 19, Eff. May 2, 1972.

R 285.152.10 Records.

Rule 10. An operator of an approved feedlot shall keep records for 2 years which shall contain:

(a) The tag number of each animal and the dates it was purchased and sold.

(b) The name and address of the person from whom the animal was purchased.

(c) The name and address of the person to whom the animal was sold.

History: 1954 ACS 71, p. 19, Eff. May 2, 1972.

REGULATION NO. 154. RIDING STABLES AND SALES BARNS

(By authority conferred on the director of agriculture by section 2 of Act No. 93 of the Public Acts of 1974, being §287.112 of the Michigan Compiled Laws)

R 285.154.1 Definitions.

Rule 1. (1) The terms defined in the act have the same meanings when used in these rules.

(2) "Act" means Act No. 93 of the Public Acts of 1974, being §287.111 et seq. of the Michigan Compiled Laws.

(3) "Director" means the director of the department of agriculture or his authorized representative.

(4) "Facility" means a riding stable or a sales barn, or both.

(5) "Licensee" means a person, firm, or corporation licensed as a riding stable or sales barn.

(6) "Standards" means the requirements as set forth in the act and these rules.

History: 1954 ACS 87, p. 11, Eff. May 25, 1976.

R 285.154.2 Scope.

Rule 2. Except as limited by section 5 of the act, the department may confer with the owner or operator of a riding stable or sales barn at any time to further the administration of the act or these rules.

History: 1954 ACS 87, p. 11, Eff. May 25, 1976.

R 285.154.3 Licensing.

Rule 3. (1) A person, firm, or corporation operating, or desiring to operate, a riding stable or sales barn shall apply for a license on an application form secured from the department. The completed application shall be filed with the department.

(2) A copy of these rules shall be attached to each application for a license. The applicant shall acknowledge receipt of the rules and agree to comply with them by signing a form provided for that purpose. The signed form shall accompany the application for a license.

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(3) Before a license is issued, an applicant shall demonstrate that his facility complies with the standards set forth in these rules. If the applicant's facility does not comply with the standards, the applicant shall be advised in writing of the deficiencies which exist and the corrective measures which shall be completed before a license is issued. When an existing facility does not comply with the standards, the director may issue a temporary permit to operate the facility for a specified period of time. This period of time shall not exceed 90 days for the facility to be brought into compliance with the standards. While operating under a temporary permit, the rules of sanitation and humane treatment of the animals set forth in these rules shall be complied with.

(4) A licensee shall notify the department promptly of changes in name, address, management, or substantial control of ownership of his business or operation.

(5) A person whose license has been suspended or revoked shall not be licensed in any manner during the period in which the order of suspension or revocation is in effect. A partnership, firm, or corporation in which such a person has a substantial financial interest shall not be licensed during that period. A person who has been an officer, agent, or employee of the licensee whose license has been revoked, and who was responsible for, or participated in, the violation upon which the order of suspension or revocation was based, shall not be licensed during the period in which the order of suspension or revocation is in effect.

History: 1954 ACS 87, p. 11, Eff. May 25, 1976.

R 285.154.4 Records.

Rule 4. Records shall be maintained pursuant to section 5 of the act.

History: 1954 ACS 87, p. 11, Eff. May 25, 1976.

R 285.154.5 Shelter; box stalls and pens; slip stall or tie areas.

Rule 5. (1) A facility shall provide a shelter or barn which is large enough to comfortably accommodate all animals during inclement weather. This shelter shall be structurally sound and maintained in good repair to protect an animal from injury. The construction of the shelter shall provide for proper drainage so that the floor can be maintained in a dry condition.

(2) Box stalls and pens shall be of adequate size and height to allow animals to move about in a normal manner and to lie down comfortably.

(3) Slip stalls or tie areas shall provide adequate room for an animal to stand normally and to lie down comfortably.

History: 1954 ACS 87, p. 11, Eff. May 25, 1976.

R 285.154.6 Tack.

Rule 6. (1) Equipment shall be kept in satisfactory repair and condition so that it will not cause undue stress, pain, or injury when used on the animals.

(2) Tack shall be kept clean to prevent the spread of disease or ectoparasites.

(3) The storage area for tack shall be kept clean and be so constructed that it can be maintained properly. Debris shall not be allowed to accumulate in this area.

History: 1954 ACS 87, p. 12, Eff. May 25, 1976.

R 285.154.7 Sanitation.

Rule 7. (1) An effective program for the control of insects, ectoparasites, and vermin shall be established and maintained.

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(2) Provision shall be made for the removal and proper disposal of animal wastes and debris. Dead animals shall be immediately removed and properly disposed of.

(3) The floor of the shelter or barn shall be kept dry, clean, and bedded to provide comfort to the animals.

(4) Buildings housing animals shall be properly ventilated to prevent the harmful accumulation of ammonia and condensation of moisture.

(5) Manure piles shall not be allowed to accumulate to the point where they create an insect or vermin problem.

(6) A sales barn shall be completely cleaned of manure and debris between each sales day. An approved method of disinfection shall be conducted between each sales day.

(7) Buildings and grounds included in the premises shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in these rules. The premises shall remain free of accumulated debris.

History: 1954 ACS 87, p. 12, Eff. May 25, 1976.

R 285.154.8 Animals to be kept in compatible groups.

Rule 8. (1) Animals shall be kept in compatible groups so that undue injury is not inflicted upon animals by other animals. Animals shall not be kept from their share of feed and water by boss or dominant animals.

(2) Stallions shall be confined in enclosures which are structurally sound so that the animal is kept separate from other animals under all conditions except for breeding and riding purposes at which times the stallion shall be under the control of the handler or rider.

History: 1954 ACS 87, p. 12, Eff. May 25, 1976.

R 285.154.9 Employees.

Rule 9. A sufficient number of employees shall be used to maintain the prescribed level of husbandry practices set forth in these rules.

History: 1954 ACS 87, p. 12, Eff. May 25, 1976.

R 285.154.10 Feed and water.

Rule 10. (1) An animal shall be supplied daily with feed of sufficient quantity and nutritive value to meet the normal maintenance requirements for that animal. When animals are kept in groups, care shall be taken to provide adequate space and accessibility so that each animal receives his share of the feed and is not deprived of that share by boss or dominant animals.

(2) An animal shall be provided with an adequate amount of clean water daily. A watering receptacle shall be so constructed that an animal can drink freely. The receptacle shall be maintained in a sanitary condition.

(3) A feed receptacle shall be easily accessible for an animal. A feed receptacle shall be maintained in a sanitary condition and in good repair to prevent injury to animals. Grain shall be fed only in a feed receptacle.

History: 1954 ACS 87, p. 12, Eff. May 25, 1976.

R 285.154.11 Exercise.

Rule 11. An animal shall be provided adequate exercise daily.

History: 1954 ACS 87, p. 12, Eff. May 25, 1976.

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R 285.154.12 Disease or injury.

Rule 12. (1) Approved practices of disease control shall be followed. An animal, exhibiting symptoms, or known to be a carrier of a communicable disease, shall be separated from susceptible animals in an approved manner so as to prevent the spread of the disease.

(2) An animal that has an injury, disease, or other infirmity shall not be ridden or driven if doing so could cause it undue pain, suffering, or discomfort.

(3) Proper medical attention shall be given to an animal suffering from injury or disease.

(4) An animal suffering from a terminal condition shall be humanely destroyed by accepted methods.

History: 1954 ACS 87, p. 13, Eff. May 25, 1976.

R 285.154.13 Veterinary service.

Rule 13. The services of a licensed veterinarian shall be available to the licensee and the name of the veterinarian shall appear on the application for license.

History: 1954 ACS 87, p. 13, Eff. May 25, 1976.

REGULATION NO. 156. DISPOSITION OF ANIMALS EXPOSED TO BRUCELLOSIS

(By authority conferred on the department of agriculture by section 6 of Act No. 181 of the Public Acts of 1919 and section 2 of Act No. 13 of the Public Acts of 1921, being §§287.6 and 285.2 of the Michigan Compiled Laws)

R 285.156.1 Branding and disposition of exposed animals.

Rule 1. An exposed animal in a brucellosis-infected and quarantined herd shall be branded on the left jaw with the letter "S" before a permit is issued to dispose of the animal for slaughter.

History: 1954 ACS 91, p. 28, Eff. May 11, 1977.

CHEMICAL LABORATORIES DIVISION

REGULATION NO. 200. COMMERCIAL FERTILIZERS

R 285.200 Rescinded.

History: 1944 AC, p. 28; 1954 AC, p. 1516; 1954 ACS 2, p. 7, Eff. May 13, 1955; 1954 ACS 42, p. 16, Eff. May 15, 1965; rescinded 1954 ACS 87, p. 14, Eff. May 5, 1976.

REGULATION NO. 201. COMMERCIAL FEEDING STUFFS

R 285.201 Rescinded.

History: 1944 AC, p. 29; 1954 AC, p. 1518; rescinded 1954 ACS 23, p. 6, Eff. Aug. 12, 1960.

REGULATION NO. 202. FRESH FRUITS AND VEGETABLES CONTAINING POISONOUS SPRAY RESIDUE

(By authority of Act No. 137 of the Public Acts of 1935, being §286.341 et seq. of the Michigan Compiled Laws)

R 285.202.1 Transportation and handling of fresh fruits and vegetables containing excessive quantities of poisonous spray residue; offering or exposing for sale.

Rule 1. (1) No person, firm, or corporation, by themselves or their agents or servants shall, within this state, have in their possession with intent to sell, or offer or expose for sale, or sell any article of food which is adulterated or misbranded.

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(2) The transportation, handling, offering, or exposing for sale or selling fruit or vegetables containing added excessive quantities of dangerous poisonous spray residue constitutes adulteration, and violators are subject to the penalties of the laws governing.

(3) The maximum tolerances for lead and arsenic that may be present as spray residue on fruit and vegetables offered for sale or sold in Michigan are declared to be the latest tolerances allowed therefor by the secretary of agriculture of the United States which are as follows: .050 grains of lead per pound of fruit and .025 grains of arsenic, (expressed as arsenic trioxide), per pound of fruit.

History: 1944 AC, p. 32; 1954 AC, p. 1521.

REGULATION NO. 203. DEFINITIONS

(By authority of Act No. 134 of the Public Acts of 1929, as amended, being §287.141 et seq. of the Michigan Compiled Laws)

R 285.203.1 "Internally" defined.

Rule 1. The term "internally" is understood and declared to mean the introduction, naturally or artificially, of any livestock or poultry remedy as defined by Act No. 134 of the Public Acts of 1929, as amended, by or through natural openings in the anatomy of any animal other than man or by inhalation, injection, transfusion, or application to the mucosa.

History: 1944 ACS 22, p. 5; 1954 AC, p. 1521.

MARKETING DIVISION

REGULATION NO. 301. GENERAL MARKETING PROGRAM

(By authority conferred on the director of the department of agriculture by section 18 of Act No. 232 of the Public Acts of 1965, being §290.668 of the Michigan Compiled Laws)

R 285.301.1 Definitions.

Rule 1. As used in these rules:

(a) Words and phrases have the same meanings as given them in the act.

(b) "Act" means Act No. 232 of the Public Acts of 1965, as amended, being §290.651 et seq. of the Michigan Compiled Laws.

(c) "Certificate of privilege" means a written notification issued by a marketing program committee suspending, altering, or exempting any person or area from the marketing program.

(d) "Commodity" means an agricultural commodity as defined in the act.

(e) "Container" means a box, bag, crate, hamper, basket, package, or other receptacle used in packaging, transporting, sale, shipment, or other handling of a commodity.

(f) "District" means a geographic division of a production area as provided in a marketing program.

(g) "Grading" and "preparation for market" means the sorting or separation of a commodity into grades, sizes, and packs for market purposes.

(h) "Pack" means a quantity of a commodity specified by weight, grade, size, numerical count, or type or condition of container, or any combination of these, recommended by a marketing program committee and approved by the director.

(i) "Processing" means the alteration, change, or modification of a commodity so that it loses its original form or appearance.

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(j) "Retailer" means a person who purchases or acquires a commodity for resale at retail to the general public, and who does not engage in the business of a distributor.

History: 1954 ACS 50, p. 13, Eff. May 15, 1967.

R 285.301.2 Purposes.

Rule 2. The purpose of this general marketing program is to furnish general provisions which with necessary adaptations shall be incorporated into any specific marketing program which comes into existence under the act. A program for any commodity, including these general provisions, is developed for the purpose of improving the economic position of Michigan commodity producers by providing better marketing methods for their products. This shall be accomplished by improving the quality, demand, available market information and marketing methods, and by enhancing markets for Michigan products.

History: 1954 ACS 50, p. 14, Eff. May 15, 1967.

R 285.301.3 Scope.

Rule 3. (1) This general marketing program applies only to commodities for which producers have petitioned the director in accordance with subsection (a) of section 10 of the act.

(2) A commodity produced for sale under the act shall be cut, gathered, or otherwise harvested for commercial purposes in accordance with the rules established hereunder, and the specific marketing program for that commodity. A commodity produced in Michigan for sale shall not be handled or distributed in the primary channel of trade except as provided in these rules.

(3) A handler, distributor, processor, or producer of a commodity under the act shall market it in accordance with the specific marketing program for that commodity and the rules established hereunder.

History: 1954 ACS 50, p. 14, Eff. May 15, 1967.

R 285.301.11 Commodity committee; establishment and terms of office.

Rule 11. (1) When a marketing program has been approved in referendum for a commodity, a Michigan commodity committee shall be established to perform the function of administering the marketing program approved for that commodity. The committee shall consist of an odd number of members of not less than 5 nor more than 15. The director or his representative shall serve as an ex-officio member without vote. Additional ex-officio members, without vote, may serve if provided for in a specific marketing program.

(2) The term of office of a committee member shall be as provided in a specific marketing program. A committee member shall not serve continuously for more than 3 consecutive terms.

History: 1954 ACS 50, p. 14, Eff. May 15, 1967.

R 285.301.12 Commodity committee districts.

Rule 12. (1) To provide a system for selecting committee members on an equitable and representative basis, districts of the commodity production area shall be established in a marketing program. When, in the opinion of the director, production and marketing practices of a commodity make it impractical to establish geographic divisions of the state as districts, the members of the commodity committee may be designated on other than a geographic basis and the basis for the selection of commodity committeemen shall be included in the

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proposed program at the time of the hearing and shall be part of the program voted upon in the referendum.

(2) If provided in the program, a committee may recommend for approval by the director the reestablishment of districts within the commodity production area or the reapportionment of members among districts. In recommending the change, the committee shall give consideration to:

(a) Shifts in commodity acreage or production within the districts and within the production area during recent years.

(b) The importance of new production in its relation to existing districts.

(c) The equitable relationship of committee membership and districts.

(d) Economies to result for producers from promoting efficient administration.

(e) Other relevant factors.

(3) A recommendation for redistricting or reapportionment of members shall be made not less than 6 months prior to the date on which the terms of office of affected committeemen begin. A change in districting or in reapportionment of members for any year shall become effective not less than 30 days prior to the date on which the terms of office of affected committeemen begin.

History: 1954 ACS 50, p. 14, Eff. May 15, 1967; 1954 ACS 54, p. 32, Eff. May 15, 1968.

R 285.301.13 Nomination and appointment of members.

Rule 13. (1) The governor shall appoint the members of a committee from districts and from persons nominated as provided in a specific marketing program.

(2) If nominations are not made as provided in this rule, the governor may appoint the committee members on the basis of representation provided for in the marketing program.

History: 1954 ACS 50, p. 15, Eff. May 15, 1967.

R 285.301.14 Qualification and vacancies.

Rule 14. (1) A person appointed as a committee member shall qualify by filing a written acceptance and oath of office within 10 days after being notified of his appointment.

(2) To fill the unexpired term of a committee member whose office is vacant, the governor shall appoint a member from unselected nominees on the current nominee list from the district involved, or from additional nominations made as provided in R 285.301.13 when requested by the governor and such additional nominations shall be made within 30 days after such request.

(3) A committee member whose term of office has expired may serve until his successor is appointed.

History: 1954 ACS 50, p. 15, Eff. May 15, 1967.

R 285.301.15 Disqualification of members.

Rule 15. Disqualification of a committee member may be made for any of the following reasons:

(a) He ceases to be a producer or handler.

(b) Executive disqualification by the governor on recommendation of the committee and the director when a member's conduct is deemed prejudicial to the industry and the commodity marketing program. The member against whom charges are made shall have a proper hearing before the committee, with the assistance of counsel if he desires.

History: 1954 ACS 50, p. 15, Eff. May 15, 1967.

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R 285.301.16 Method of action; records and reports.

Rule 16. A committee may act by telephone, telegraph, or other means of communication and a vote by such a method shall be promptly confirmed by the member in writing. The committee shall keep minutes, books, and records which clearly reflect all its acts and transactions. The minutes, books, and records are subject to examination at any time by the director or his authorized agent or representative. Minutes of a committee meeting shall be reported promptly to the director. At the end of a marketing season, the committee shall furnish to the director a statistical and historical annual report of its operations.

History: 1954 ACS 50, p. 15, Eff. May 15, 1967.

R 285.301.17 Compensation, expenses, and fiscal year.

Rule 17. (1) Committee members when acting on authorized committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their functions under the marketing program. In addition, they may receive compensation at a rate to be determined by the committee, not to exceed $20.00 for each day, or portion of a day, spent in performing committee business.

(2) A committee may incur reasonable expenses for its maintenance and functioning, and for the purposes that the director, pursuant to the program, deems appropriate.

(3) The fiscal year of a committee shall begin and end on an annual basis, the dates of which shall be established by the committee with approval of the director.

History: 1954 ACS 50, p. 15, Eff. May 15, 1967.

R 285.301.21 Responsibilities of committee.

Rule 21. A committee has the responsibility to:

(a) Develop administrative procedures of the marketing program in accordance with its terms and provisions.

(b) Receive, investigate, and report to the director complaints of a violation of the provisions of the marketing program.

(c) Recommend to the director amendments to the marketing program.

History: 1954 ACS 50, p. 15, Eff. May 15, 1967.

R 285.301.22 Duties of committee.

Rule 22. A committee shall:

(a) As soon as practicable after the appointment of members for full terms of office, meet and organize, select a chairman and other officers deemed necessary, select subcommittees of committee members, and adopt rules and regulations deemed advisable for the conduct of its business.

(b) Appoint employees, agents, and representatives deemed necessary and determine their salaries and define their duties and protect the handling of committee funds.

(c) Furnish the director such available information as he may request.

(d) Prepare a marketing policy within the scope of the program.

(e) Act as intermediary between the director and any producer or handler.

(f) Recommend to the director rules and regulations to effectuate the terms and provisions of the marketing program.

(g) Recommend to the director rules and procedures for issuance of certificates of privilege, and make determinations in connection with issuance of certificates of privilege if provided for in the program.

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(h) Establish appeal procedure when a certificate of privilege is denied.

(i) Cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at other times deemed necessary by the committee or as the director may request. The audit report shall show the receipt and expenditure of funds handled during the fiscal period. A copy of each report shall be made available at the principal office of the committee for inspection by producers and handlers, and a copy of each report shall be furnished to the director.

(j) Publish annually a written activity and financial report and make it available to interested parties.

History: 1954 ACS 50, p. 16, Eff. May 15, 1967.

R 285.301.23 Budgets and assessments.

Rule 23. (1) As soon as practicable after the beginning of each fiscal period and when necessary thereafter, a committee shall prepare an estimated budget of income and expenditures necessary for the administration and operation of the marketing program. The committee shall recommend a rate of assessment not in excess of that rate specified in the program, calculated to provide adequate funds to defray its proposed expenditures. The committee shall present the budget to the director with an accompanying report showing the basis for its calculations.

(2) Assessments for a fiscal period shall be fixed at rates sufficient to cover committee expenses during the period and to accumulate and maintain reserve funds. Rates may be established upon the basis of a committee's recommendations and other available information. Rates may be applied to specified production units used in the production areas as defined in the program.

(3) The director shall, upon recommendation of the committee, direct the handlers or distributors of the commodity as to the collection and remittance of the producer assessments to the committee account. A handler or distributor may deduct assessments from amounts owned to a producer.

(4) At any time during, or subsequent to, a fiscal period, a committee may recommend approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the director may approve an amended budget and an increase in the rate of assessment if it is not in excess of the rate specified by the program. The increase shall apply to any commodity covered by the program during such fiscal period.

(5) Payment of assessments for the maintenance and functioning of a committee may be required under a marketing program throughout the fiscal period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

History: 1954 ACS 50, p. 16, Eff. May 15, 1967.

R 285.301.24 Excess funds.

Rule 24. (1) If, at the end of a fiscal period, the assessments collected exceed expenses incurred, the excess shall be used in accordance with either of the following:

(a) A committee, with the approval of the director, may establish and maintain a reserve fund equal to approximately a single fiscal period's expenses. A reserve fund may be used for all authorized expenses.

(b) If the excess is not maintained in a reserve, as provided in subdivision (a), it shall be refunded proportionately to the producers from whom it was collected.

History: 1954 ACS 50, p. 16, Eff. May 15, 1967.

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R 285.301.25 Funds; use and accounting.

Rule 25. (1) Funds received by a committee shall be used solely for the purpose specified and accounted for as provided in the marketing program. The director at any time may require a committee and its members to account for all receipts and disbursements.

(2) Upon the removal, or expiration of the term of office, of a committee member, he shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee. He shall execute assignments and other instruments necessary or appropriate to vest in the committee full title to all of the property, funds and claims vested in him pursuant to the marketing program.

(3) A committee may recommend to the director that 1 or more of the committee members, or any other person or organization, act as trustee for holding records, funds, or other committee property during any period when the marketing program is temporarily suspended. The director may direct that such person or organization act as trustee for the committee when he deems it appropriate.

History: 1954 ACS 50, p. 17, Eff. May 15, 1967.

R 285.301.31 Commodity standards.

Rule 31. (1) On the basis of information available to it a committee may recommend to the director the establishment of minimum standards for quality, packs, sizes, grades, or condition of a commodity which is sold and the director may establish such standards. The standards may:

(a) Limit in any portion of the production area the handling of particular grades, sizes, quantities, qualities, condition, or packs, or any combination thereof, during any period.

(b) Limit the handling of particular grades, sizes, quantities, qualities, condition, or packs of the commodity differently for different portions of the production area, for different markets, for different containers, or any combination thereof, during any period.

(c) Fix the size, capacity, weight, dimension, or condition of any container used in handling the commodity.

(2) The standards may be amended, modified, suspended, or terminated by the committee for an area, individual producer or handler, or defined market by issuance of certificates of privilege when it is deemed advisable by the committee following guidelines and procedures recommended to and approved by the director:

(a) That such action is essential to provide relief from inspection, assessment, or regulation.

(b) That the standard no longer tends to effectuate the declared policy of the marketing program.

(c) That the handling of the commodity for relief, charity, export, experimental, and other purposes which may be recommended by the committee, will be facilitated.

(3) The amendment, modification, suspension, or termination, granted by a certificate of privilege, may be rescinded by the committee when conditions so warrant, following guidelines and procedures recommended to and approved by the director.

(4) The committee shall adopt procedures necessary to establish that shipments made pursuant to this rule were handled and used in a manner and for the purpose stated.

History: 1954 ACS 50, p. 17, Eff. May 15, 1967.

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R 285.301.32 Research programs.

Rule 32. A committee may develop research programs designed to improve the market acceptability and to contribute to the effectiveness of the commodity marketing program and secure the cooperation of the dean of agriculture of Michigan state university or his representative in selecting and planning of any research program.

History: 1954 ACS 50, p. 17, Eff. May 15, 1967.

R 285.301.33 Advertising and sales promotion programs.

Rule 33. (1) A committee may recommend to the director for approval the establishment of plans and programs for advertising and sales promotion to maintain or create new or larger markets for the commodity.

(2) A committee may employ or discharge an advertising manager, agent, agency or professional or technical services deemed necessary for proper implementation of the plans or programs. The committee may employ persons to visit buyers and potential buyers or other interested persons and disseminate promotional materials, information, and facts which will tend to increase knowledge of, and demand for, the commodity.

(3) A committee may hold clinics or meetings for dissemination of market information to buyers or potential buyers of the commodity and to improve trade relations.

(4) A committee may be responsible for preparing and gathering market information and reports necessary for the proper operation of its programs including data on current commodity supplies, prices, condition, movement, sizes, packs, and other information needed to plan an effective commodity program.

(5) A committee may cooperate with other agencies, commodity committees, units of government, persons, and organizations when cooperation will make the programs of the committee more efficient or effective and tend to effect the purposes of the marketing program. Cooperation may include sharing of expenses.

History: 1954 ACS 50, p. 17, Eff. May 15, 1967.

R 285.301.34 Limitation on committee recommendations.

Rule 34. A committee shall not make a recommendation to the director under R 285.301.31 to R 285.301.33 unless the subject of the recommendation is a part of the marketing program.

History: 1954 ACS 50, p. 18, Eff. May 15, 1967.

R 285.301.35 Marketing policy statements.

Rule 35. (1) Because of annual changes in market conditions, a committee shall prepare a marketing policy statement consistent with the provisions of the specific program prior to the beginning of each marketing season. Based upon information and data available to the committee, recommendations shall be made to the director as to rules and regulations for the ensuing season. Notice of marketing rules and regulations shall be sent to all handlers, distributors, producers, and other interested parties.

(2) The committee shall distribute the proposed policy statement and recommendations to all known producers and handlers, by United States mail to their last post office addresses of record, at least 10 days prior to their proposed effective date to allow for comment or protest from interested parties.

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(3) A suggested change in, or protest of, the recommended rules or regulations shall be filed with the secretary of the committee in writing at least 6 days prior to their effective date. The committee shall review properly submitted suggested changes or protests and may recommend amendment or change to the director prior to the issuance of the rules or regulations.

(4) Upon compliance with this rule, the director, when he finds that the rules and regulations would tend to effectuate the purpose of the program, shall issue the rules and regulations for the current marketing season.

History: 1954 ACS 50, p. 18, Eff. May 15, 1967.

R 285.301.36 Inspection and certification.

Rule 36. (1) When a marketing program requires inspection and when the handling of a commodity is regulated and not exempt by a certificate of privilege which may be issued by a committee, a handler shall not handle the product unless it is inspected under the supervision of competently trained inspectors approved by the director, or by inspectors supplied under cooperative agreement between the department and the United States department of agriculture.

(2) Inspection shall be by federal-state qualified inspectors unless unavailable in a production area in which case competently trained inspectors may be used under the supervision of the department.

(3) A certificate showing that each lot of such commodity has been inspected shall be issued in all cases. Inspection may be made and the certificate issued either on receipt of the commodity from the producer by the handler or processor, or when shipped by the handler to the buyer. A copy of all inspection certificates shall be made available to the committee.

(4) The committee, with the director's approval, may determine when the requirements of this rule are met.

History: 1954 ACS 50, p. 18, Eff. May 15, 1967.

R 285.301.37 Reports and information.

Rule 37. (1) Upon request of a committee, with approval of the director, producers, processors, handlers, and distributors shall furnish to the committee in the manner and at the time prescribed by the committee, reports and other information necessary for the committee to perform properly and effectively its duties under the marketing program.

(2) Reports shall be confidential and kept in the custody of the committee, or its duly appointed representatives or agents. The committee may compile general public reports from information submitted, if no disclosure of an individual's identity or operations is made.

(3) Records and data required by a committee to be kept by a producer, handler, processor, or distributor shall be maintained for 2 years.

History: 1954 ACS 50, p. 18, Eff. May 15, 1967.

R 285.301.40 Resubmission.

Rule 40. A specific marketing program shall be resubmitted to a referendum of the producers as provided by the act.

History: 1954 ACS 50, p. 19, Eff. May 15, 1967.

CHERRY COMMISSION

REGULATION NO. 311. CHERRY ASSESSMENTS

(By authority conferred on the cherry commission by section 8 of Act No. 228 of the Public Acts of 1947, being §290.508 of the Michigan Compiled Laws)

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R 285.311.1 Processors' reports.

Rule 1. A processor of cherries shall file with the secretary of the Michigan cherry commission, not later than October 15 of each year, a complete list of all growers from whom he received cherries, their addresses, and their individual tonnages delivered. The list shall include growers for whom cherries were custom processed or processed under contract.

History: 1954 ACS 68, p. 10, Eff. Aug. 5, 1971.

R 285.311.2 Assessments.

Rule 2. (1) A processor shall forward to the secretary of the Michigan cherry commission the assessment levied under the act on all cherries which he receives and processes and not only on those which he purchases. The assessment shall be forwarded on all cherries which are processed after purchase, custom processed, processed under contract, or processed under any other arrangement.

(2) Assessments deducted and collected under the act are payable to the secretary of the commission not later than October 15 of the year in which the assessment is levied.

History: 1954 ACS 68, p. 10, Eff. Aug. 5, 1971.

R 285.311.3 Volume and weight conversion factors.

Rule 3. (1) When tart cherries are received for processing by volume measurement rather than by weight, the commission shall accept a conversion factor of 47.45 pounds per cubic foot of cherries suspended in water.

(2) When tart cherries are processed in a frozen form without being weighed or measured, the commission shall accept a conversion factor of 30 pounds of raw product to each 30 pounds of processed product.

History: 1954 ACS 68, p. 10, Eff. Aug. 5, 1971.

R 285.311.4 Exemption certificates.

Rule 4. A grower filing for an exemption from the cherry assessment in any calendar year shall comply with the following:

(a) A request shall be individually signed by the grower or his agent.

(b) A request shall be forwarded by certified mail.

(c) A request shall not be received by the secretary of the commission before January 1 of the year in which the exemption is to apply nor later than May 1 of that year.

(d) An exemption certificate shall be presented to processors not later than September 1 of the year of application in order to be valid.

History: 1954 ACS 68, p. 10, Eff. Aug. 5, 1971.

DAIRY DIVISION

REGULATION NO. 400. ICE CREAM

(By authority of section 11 of Act No. 222 of the Public Acts of 1931, as amended, being §288.311 of the Michigan Compiled Laws)

R 285.400.1 Ice cream standards.

Rule 1. (1) For the purpose of the standards prescribed in section 2 of Act No. 222 of the Public Acts of 1931, as amended, stabilizers used in the manufacture of ice cream and ices shall contain no neutralizer, no ingredients harmful or

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deleterious to health, no fat, other than milk fat, and no artificial coloring that may increase the color of the ice cream. All stabilizers shall be plainly labeled as to their ingredients, and shall be registered with the department of agriculture as to their brand name and ingredients. All harmless stabilizers complying with the foregoing requirements are hereby approved.

(2) For the purposes of section 2(b), the equivalent of sound fruit or the juice thereof shall be deemed to be fruit that has been concentrated or dehydrated when used in amounts of not less than the ratio of concentration to the weight percent prescribed in section 2(b).

(3) In the manufacture for sale of ice cream labeled or represented as vanilla ice cream, or vanilla flavored ice cream, a true, pure vanilla flavor or vanilla extract manufactured in accordance with the latest standards of purity established by the secretary of the United States department of agriculture must be used. The use of any compound, preparation, imitation or artificial product producing a vanilla-like flavor that may deceive the consumer as to the content, richness, character, or quality of any such ice cream is prohibited. Artificial coloring and artificial flavoring shall be deemed to be used in violation of this rule when used so as to enhance the natural color or flavor of any ice cream or imitation ice cream or when the artificial coloring or artificial flavoring imparts a color or flavor that causes the product to appear richer or of greater value than it really is. Any artificial color used in red raspberry, strawberry, cherry, or wintergreen flavored ice cream or imitation ice cream which imparts a red color darker than that of the natural fruit added; or any artificial color used in lemon, pineapple, or banana flavored ice cream or imitation ice cream which imparts a yellow color darker than that of the natural fruit added; any artificial yellow color used in vanilla flavored ice cream, imitation ice cream, or custard ice cream; or any artificial brown color used in any chocolate flavored ice cream or imitation ice cream; shall be deemed to be a violation of these rules.

(4) Signs to be displayed in accordance with section 7(d) of said act shall be of a black on white design 11½ inches in length and 10 inches in width and prepared in a form substantially as follows:

11½ in.

ICE CREAM, SHERBETS, and ICES

Sold Here

Made By

MILK PRODUCERS CO.

10 in.

This sign required by
Act 222,
P.A. 1931,
Michigan

and the words "ice cream," "sherbets," and "ices" shall be in plain, block, legible type letters ¾ inch in height and the name of the manufacturer shall be in plain, block, legible type letters 1 inch in height.

History: 1944 AC, p. 45; 1944 ACS 12, p. 12; 1954 AC, p. 1521.

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REGULATION NO. 401. SEDIMENT TESTS

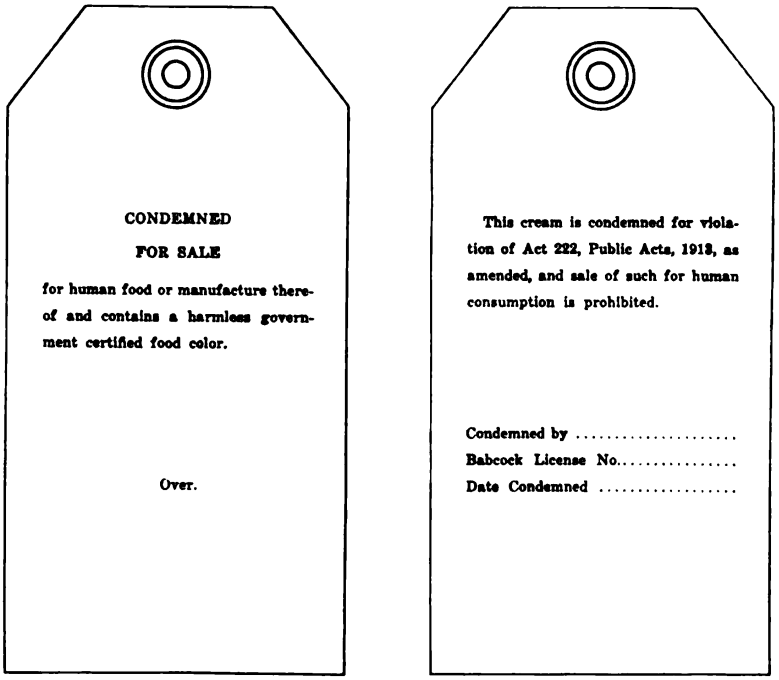
(By authority conferred on the commissioner of agriculture by Act No. 344 of the Public Acts of 1917 and Act No. 13 of the Public Acts of 1921, being §289.201 et seq. and §285.1 et seq. of the Michigan Compiled Laws)

R 285.401.1 Sediment tests of cream; condemnation of cream.

Rule 1. (1) A sediment test must be run on the first can of cream offered for sale by a new patron before the sale can be consummated.

(2) In case of route or direct shipments of cream, all sediment discs used in making sediment tests, after such test shall have been made, must be preserved for 24 hours, then sent to the patron (a) by the hauler on his next trip after completion of the test, or (b) accompany the next cream check to the patron after completion of the test.

(3) Tags that cream buyers affix to containers of condemned cream shall be made of a deep yellow, medium weight cardboard, size 6¼ x 3⅛ inches, with black letters. The following form shows each side of condemnation tag:



Each cream buyer must sign each condemnation tag when affixing same to container of condemned cream, along with his Babcock license number and date of condemnation.

(4) A permanent, pronounced red color, certified by the bureau of chemistry, United States department of agriculture, as a harmless food color, is the color approved by the commissioner of agriculture for mixing with the condemned cream.

(5) For the purpose of section 12 of Act No. 222 of the Public Acts of 1913, each licensed cream buyer shall report to the commissioner of agriculture, not later than the following day, all cream condemned by him, in the following form:

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Buyer _____
Address _____
Date _____ 19____

Commissioner of Agriculture

Dear Sir:

We have this day condemned cream under Act 222, Session Law of 1913, as amended and added to by Act No. 242, Public Acts, 1935. This cream was produced and/or offered for sale by:

Name_____ P. O. Address _____
_____lbs. of cream_____ Test of cream
Disposition _____
Why condemned_____
Remarks _____

Condemned by _____
Babcock License No. _____

History: 1944 AC, p. 47; 1954 AC, p. 1522.

REGULATION NO. 402. LICENSING OF TEST OPERATORS AND USE OF "BABCOCK" TEST

(By authority of Act No. 212 of the Public Acts of 1935, being §288.51 et seq. of the Michigan Compiled Laws)

R 285.402.1 Licensing "Babcock" test operators; sampling and testing milk and cream; use of "Babcock" test.

Rule 1. (1) Applicants for licenses, as provided in section 1 of Act No. 212 of the Public Acts of 1935, shall present themselves for examination at such points and on such dates as the director of the bureau of dairying, or other authorized examiner may designate.

(2) The granting of licenses, as provided in section 2 of Act No. 212 of the Public Acts of 1935, shall be governed by compliance with said act and the receiving, by applicant upon examination, of at least 70 points of a possible 100 based on the following credits:

(a) Subjects, written examination 75%
(b) Practical demonstration 25%

(3) For the purpose of section 6 of Act No. 212 of the Public Acts of 1935, the true measurement or weight shall be 17.6 cubic centimeters for milk and 9 grams for cream and in all tests the cream shall be weighed into the test bottles. To bring the test to the proper temperature for reading, bottles shall be left in water bath at a temperature between 135 and 140 degrees Fahrenheit, for at least 3 minutes.

(4) Glymol: In reading cream tests, the upper meniscus shall be removed by the addition of a few drops of glymol when the test bottles are taken from the water bath. In the case of milk tests, no glymol shall be used, and the meniscus shall be included in the reading.

(5) Saving samples: Samples of milk and cream that are tested for the purpose of determining the percentage of butterfat contained therein and which tests are used as a basis for payment for such milk and cream, shall be saved until 4 p.m. of the business day following the day on which samples were tested. Such samples of milk and cream so tested and preserved shall be appropriately dated and

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identified by test numbers or patron's names and shall be properly covered and sealed to prevent any changes in composition or deterioration of the samples. A sufficient number of such samples shall be tested on each and every visit of authorized inspectors or agents of the commissioner of agriculture to determine the accuracy of the testing being done. Complete results of samples tested shall be shown on each inspector's report and a copy shall be forwarded to the creamery receiving the milk or cream.

(6) For the purpose of section 7 of Act No. 212 of the Public Acts of 1935, the certificate of the commissioner of agriculture designating "standard Babcock testing glassware" shall be in the form of the letters S G M which letters shall be blown or marked on the side of each piece of such glassware.

History: 1944 AC, p. 48; 1954 AC, p. 1524.

REGULATION NO. 403. MILK AND CREAM SOLD FOR DIRECT CONSUMPTION

(By authority of Act No. 169 of the Public Acts of 1929, as amended, being §288.1 et seq. of the Michigan Compiled Laws)

R 285.403.1 Production, handling, sale, and disposition of milk and cream for direct consumption.

Rule 1. (1) Only sanitary piping of noncorrodible material and of a type which can be easily inspected, disassembled, and cleaned with a brush shall be used. All milk pumps shall be of sanitary construction with noncorrodible material for surfaces coming in contact with milk and shall be so constructed as to be easily taken apart and cleaned with a brush.

(2) All bottles, cans, pails, vats, pipes, coolers, milking machines, tanks and other equipment used for holding, conveying, processing, or transporting milk or cream shall be thoroughly cleaned immediately after each day's run and shall be disassembled, if necessary, to give access to all parts coming in contact with milk or cream.

(3) All bottles and equipment before being used, shall be treated by 1 or more of the following methods: (a) Exposed to hot water at a temperature of not less than 180 degrees Fahrenheit for a period of at least 1 minute; (b) Exposed to moist steam for not less than 15 seconds; (c) Immersed for at least 7 minutes in a hot caustic solution at a temperature of not less than 120 degrees Fahrenheit and containing not less than 3% caustic alkali expressed in terms of sodium hydrate, and then thoroughly rinsed with clean water; (d) Rinsed thoroughly with a chlorine solution containing not less than 35 parts per million of free or available chlorine or sprayed with a solution containing not less than 100 parts per million of free or available chlorine; (e) Rinsed thoroughly in a solution composed of such other sanitizing chemical as may have been registered with the department of agriculture as an approved dairy sanitizing agent.

The bacterial contamination of milk bottles after treatment shall not show a count greater than 250 per bottle as determined by the standard agar plate method.

(4) All containers and equipment after being treated, as required by subrule (3), shall be maintained in a dry condition until used unless so treated immediately prior to such use, except that nothing in this rule shall prevent the rinsing of milk cans immediately before using.

(5) Every owner or operator of a dairy plant desiring to pasteurize milk by the short time method shall make application to the department of agriculture for approval of the installation and operation of the necessary equipment. Application shall be made on forms furnished by the department of agriculture and shall give

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the name and location of the plant, the approximate amount of milk to be processed daily, the inspection maintained over such milk supplies. Application shall be accompanied by accurate diagrams of all equipment and controls and shall indicate the milk flow. The department of agriculture shall, upon receipt of such an application, make inspection of the plant, checking all equipment and its operation. The installation and operation of equipment for the short time method of pasteurization shall be approved by the department of agriculture when, after inspection and testing of all equipment, it is determined that all laws and rules pertaining thereto are complied with. Approval of the installation or operation of any equipment for the short time method of pasteurization shall be denied or revoked whenever it is determined by the department of agriculture that any piece of such equipment is not installed, operated, or maintained in accordance with the provisions of Act No. 169 of the Public Acts of 1929, as amended, or the rules pertaining thereto. The installation and operation of such equipment shall in addition comply with the following requirements:

(a) The outlet of each holding section shall be provided with an accurate indicating thermometer etched at 160 degrees Fahrenheit.

(b) The chart of the recording thermometer shall show the time and temperature that flow diversion is actuated.

(c) Each installation shall be provided with all necessary attachments for the testing of all operations.

(d) The holding section of the pasteurization equipment shall have an upward slope in the forward milk-flow direction of at least $\frac{1}{16}$ inch per foot, and such holding section shall be mounted on fixed supports.

(6) The director of the department of agriculture and the commission of agriculture hereby approve the addition of the following amounts and combinations of vitamins, minerals, nonfat milk solids per quart of milk, skimmed milk and low fat milk.

(a) Fortified milk		
Vitamin D	400	United States Pharmacopoeia units
(b) Fortified milk		
Vitamin A	2500	United States Pharmacopoeia units
Vitamin B_1	.6	Milligram
Vitamin B_2	.3	Milligram
Vitamin D	400	United States Pharmacopoeia units
Niacin	10	Milligrams
Iron	10	Milligrams
(c) Fortified skimmed milk		
Vitamin A	2000	United States Pharmocopoeia units
Vitamin D	400	United States Pharmocopoeia units
Nonfat milk solids	.7	Ounce
(d) Fortified skimmed milk		
Vitamin A	4000	United States Pharmacopoeia units
Vitamin B_1	.6	Milligram
Vitamin B_2	.3	Milligram
Vitamin D	400	United States Pharmacopoeia units
Niacin	10	Milligrams
Iron	10	Milligrams
Nonfat milk solids	.7	Ounce
(e) Low fat milk		
Vitamin D	400	United States Pharmacopoeia units

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No milk, skimmed milk, or low fat milk shall have vitamins, minerals, or nonfat milk solids added thereto other than as approved by this rule or in different combinations or amounts than are approved herein. All fortified milk, fortified skimmed milk, and low fat milk shall be pasteurized after the addition of vitamins, minerals, or nonfat milk solids. The label on each container of fortified milk, fortified skimmed milk, and low fat milk shall bear a statement of the amount of vitamins, minerals, or nonfat milk solids added per quart.

(7) All bulk milk dispensers, cans, and appurtenances used in the dispensing of milk therefrom shall be constructed and maintained in such a manner as to be sanitary and prevent contamination of the milk to be dispensed and in addition thereto shall meet the following specific requirements:

(a) Each of said cans shall be smooth, be free of rust, and have no open seams on any inside surfaces; shall have a top opening of not less than 6 inches in diameter and a dispensing outlet of not less than $\frac{5}{16}$ inch in diameter; provided that, after January 1, 1957, such cans shall be made of stainless steel and shall be as smooth as No. 4 mill finish properly applied to stainless steel or made from material with equal noncorrodible properties.

(b) Each of said cans shall have an umbrella-type cover which is securely fastened at the dairy plant with 2 car-type seals placed at opposite sides of the cover and so locked as to prevent lifting or removing the cover without breaking the seal.

(c) Each of said cans shall bear a tag or label secured by the seal stating the name of the dairy processing the milk, the kind of milk, and the date of pasteurization.

(d) Each of said dispensers shall be permanently and conspicuously marked in letters of not less than $\frac{3}{4}$ inch in height with the name of the dairy and the kind of milk being dispensed. In the case of fortified milk such sign shall bear the statement "fortified milk."

(e) Each of said cans which has a dispensing outlet at the bottom shall have that outlet through the side of the bottom rim and each dispensing hose attached thereto shall have a cup-type hose enclosure with a cover at the outlet.

(f) All tubing used for dispensing from said cans shall be constructed of noncorrodible material.

(g) All hose used for the dispensing of milk shall be single service and shall be constructed of a resilient nontoxic rubber type of material, shall be bactericidally treated and immediately sealed at one end or both ends and enclosed in an individual sanitary protective covering from which it shall not be removed until one end of said hose is connected to said can.

(h) Single service sealed containers of polyethylene are hereby approved for containing milk in bulk milk dispensers. All appurtenances shall be connected by proper sanitary seal and shall permit the filling and dispensing in a sanitary method. Such containers shall be filled by the use of approved mechanical filling equipment complying with all of the sanitary standards for such equipment. When filled such containers shall be contained and supported by substantial single service cardboard walls. All single service containers shall bear the name of the product, the name of the processor, and the date of pasteurization.

History: 1944 AC, p. 49; 1944 ACS 9, p. 28; 1944 ACS 36, p. 6; 1944 ACS 39, p. 5; 1954 AC, p. 1525; 1954 ACS 1, p. 10, Eff. Mar. 18, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 27, p. 6, Eff. Aug. 14, 1981; 1954 ACS 36, p. 5, Eff. Nov. 14, 1983.

REGULATION NO. 404. GRADING BUTTER

(By authority of Act No. 211 of the Public Acts of 1955, being §288.211 et seq. of the Michigan Compiled Laws)

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R 285.404.1 Grading of butter; approval and licensing of butter graders; labeling requirements for undergrade butter.

Rule 1. The following standards are adopted for the grading of butter:

(a) Any butter having defects listed below shall have a flavor and/or aroma score or grade of less than 90:

Definitely scorched - neutralizer
Definitely sour
Definitely fruity
Definitely yeasty
Definitely proteolytic - limburger cheese flavor
Definitely alkaline
Definitely oily
Definitely metallic
Definitely cabbage, rape, turnip, potato
Definitely musty
Definitely stale
Definitely barny
Definitely fishy
Definitely weedy
Slightly garlic or onion
Cheesy
Chemical
Rancid
Surface taint
Tallowy

(b) Any butter having a score of 90 on flavor or aroma, but possessing any of the following body or texture defects, shall be scored or graded as less than 90:

Slightly or definitely crumbly
Slightly or definitely gummy
Slightly or definitely leaky
Very slightly, slightly or definitely mealy
Slightly or definitely ragged, boring
Slightly or definitely spongy or weak

(c) Any butter having a score of 90 on flavor or aroma and body and texture, but possessing any of the following color defects, shall be scored or graded as less than 90:

Slightly to definitely color specks
Definitely high, unnatural
Slightly to definitely mottled
Slightly to definitely streaked
Slightly to definitely wavy

(d) Any butter having a score of 90 on flavor or aroma, body and texture and color, but possessing any of the following salt defects, shall be scored or graded as less than 90:

Slightly to definitely gritty
Slightly to definitely sharp

(e) Any butter having a score of 90 on flavor or aroma, body and texture, color and salt, but possessing the following package defects, shall be scored or graded as less than 90:

Slightly to definitely soiled

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GRADE LABELING

Before being offered for sale to the consuming public by retailers in this state any and all butter scored or graded below 90 shall be labeled as undergrade and the word "undergrade" shall appear prominently on that part or panel of the label which is presented or displayed under ordinary conditions of purchase. The letters comprising the word "undergrade" shall be ⅜ inch or larger in plain, block letters on strongly contrasting background.

BUTTER RETAILERS

The term "retailers" as used in the act is deemed to mean any person, firm, association, or corporation selling butter for consumption or use for any purpose other than resale and shall include selling to persons who sell or serve meals or lunches.

APPROVAL AND LICENSING OF GRADERS

No person shall certify or attempt to certify as to score or grade of butter without first being approved and obtaining a license from the department of agriculture. The issuance of such licenses shall be conditioned upon the passing by the applicant of an examination conducted by the department of agriculture. Such licenses issued shall run for a period of 1 year from the date of issuance and shall be renewed annually by filing the proper application. The licenses issued shall remain in effect for the time specified on the license, unless revoked by the director of agriculture.

REVOCATION OF LICENSE

The director of agriculture may revoke or refuse to renew any license issued under the provisions of these rules whenever it is determined by him that the applicant or licensee has failed to properly grade or score butter as required.

History: 1954 ACS 6, p. 10, Eff. May 15, 1956.

REGULATION NO. 405. FROZEN DESSERTS

(By authority conferred on the commission of agriculture by section 11 of Act No. 298 of the Public Acts of 1968, being §288.331 of the Michigan Compiled Laws)

R 285.405.1 Definitions; A to F.

Rule 1. (1) The definitions of terms in the act are applicable to these rules.

(2) "Act" means Act No. 298 of the Public Acts of 1968, being §288.321 et seq. of the Michigan Compiled Laws.

(3) "Department" means the state department of agriculture.

(4) "Freezer" means mechanical equipment used to lower the temperature of a mix, while at the same time incorporating air into the mix.

History: 1954 ACS 59, p. 26, Eff. Aug. 14, 1969.

R 285.405.2 Definitions; M to T.

Rule 2. (1) "Manufacturing or processing" means the act of assembling ingredients into a complete mix including the pasteurization, homogenization, and cooling of the mix or the act of further lowering the temperature of a mix by the use of a mechanical freezer or cooling bath surrounding a mold, while at the same time air may or may not be incorporated into the mix.

(2) "Mix" means ice cream mix, ice milk mix, sherbet mix, and any other unfrozen pasteurized liquid mixture which is to be manufactured into a frozen

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dessert, including a liquid mixture intended for processing into quiescently frozen confections.

(3) "Rerun" means a frozen dessert that is not placed in its final container immediately after passing through the freezing process and is intended to be melted and reprocessed or refrozen.

(4) "Sanitization" means the application of an effective method or substance to a clean surface for the destruction of organisms as far as is practicable, which treatment does not adversely affect the equipment, the frozen dessert or the health of consumers, and is acceptable to the department.

(5) "3-A sanitary standards and accepted practices" means the standards for dairy equipment and accepted practices formulated by the 3-A sanitary standards committees representing the international association of milk, food and environmental sanitarians, the United States public health service, and the dairy industry committee, and which are published by such International Association, Box 437, Shelbyville, Indiana. These rules include only those standards published prior to May 1, 1969.

History: 1954 ACS 59, p. 26, Eff. Aug. 14, 1969.

R 285.405.5 Separate rooms and no smoking.

Rule 5. Rooms for receiving canned milk shall be separated from the processing area by a partition or suitable arrangement of equipment or facilities to avoid contamination of milk or dairy products. Toilet and locker rooms, boiler and tool rooms shall be separated from other rooms. Smoking in the processing room is prohibited.

History: 1954 ACS 59, p. 27, Eff. Aug. 14, 1969.

R 285.405.6 Floors, walls, and ceilings.

Rule 6. (1) The floor of a room in an ice cream plant in which mix, frozen desserts, or their ingredients are manufactured, processed, or frozen, or in which containers and utensils are washed, shall be constructed of concrete or other equally impervious and easily cleanable material; and shall be smooth, properly sloped, provided with trapped drains, and kept clean and in good repair. Cold storage rooms used for storing frozen desserts and ingredients need not be provided with floor drains, but the floor shall be sloped to drain to 1 or more exits and shall be kept clean. Dry storage rooms need not be drained and tight wooden floor construction is optional. Where a freezer is located in a restaurant or similar establishment, a floor covered with a durable grade of linoleum, plastic, or other smooth nonabsorbent, easily cleanable material will be permitted. Floor drains are not required under these circumstances.

(2) The walls and ceilings of a room in an ice cream plant in which mix, frozen desserts or their ingredients are manufactured, processed, or frozen, or in which containers or utensils are washed, shall have a reasonably smooth, cleanable surface that is substantially impervious to moisture and in good repair.

History: 1954 ACS 59, p. 27, Eff. Aug. 14, 1969.

R 285.405.7 Ventilation and lighting.

Rule 7. (1) Rooms and compartments in an ice cream plant, including storage space, toilet, and dressing rooms, shall be ventilated to maintain sanitary conditions, prevent undue condensation of water vapor, and minimize or eliminate objectionable odors.

(2) Lighting, whether natural or artificial, shall be adequate and well distributed in all rooms and compartments in accordance with the use made of each

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room. Light bulbs, tubes, and fixtures shall be protected to prevent glass entering the product if breakage occurs.

History: 1954 ACS 59, p. 27, Eff. Aug. 14, 1969.

R 285.405.8 Water and steam.

Rule 8. Hot and cold water of a safe and sanitary quality shall be available in sufficient quantity for ice cream plant operations and facilities, and shall comply with the recommendations of the state department of public health. Water from other lines, when approved, may be used for boiler feed water and condenser water, if such lines are completely separated from the water lines carrying the sanitary water supply, and the equipment is so constructed and controlled as to preclude contamination of any product or product contact surface. There shall be no cross connection between the safe water supply and an unsafe or questionable water supply or any source of pollution. Steam that may come into direct contact with milk or dairy products, shall be culinary steam. Culinary steam shall comply with the recommended practices for "the production of steam of culinary quality" as published in 3-A sanitary standards and accepted practices. Only potable water shall be used to make culinary steam.

History: 1954 ACS 59, p. 27, Eff. Aug. 14, 1969.

R 285.405.9 Toilet facilities.

Rule 9. (1) Doors of a toilet room in an ice cream plant shall be self-closing. A sign directing employees to wash their hands before returning to work, shall be posted in a toilet room used by employees. A toilet room and facility shall be kept in a clean condition and in good repair.

(2) Convenient and clean handwashing facilities shall be provided for employees, including hot and cold running water or warm running water, soap, and approved sanitary towels. The use of a common towel is prohibited.

History: 1954 ACS 59, p. 28, Eff. Aug. 14, 1969.

R 285.405.10 Waste disposal; insects and rodents.

Rule 10. (1) An ice cream plant sewage system shall have sufficient slope and capacity to remove readily all waste from processing operations. Where a public sewer is not available, wastes, including those from mobile ice cream plants, shall be disposed of by methods approved by the department. Containers for the collection and holding of wastes, other than dry wastepaper, shall be constructed of metal or equally impervious material, kept covered with tight fitting lids, and placed outside the plant on a concrete slab or on a raised rack; however, waste containers may be kept inside a suitable enclosed, clean room. Solid wastes shall be disposed of regularly and the containers kept clean.

(2) Effective means shall be provided to prevent the access of insects and rodents into the plant. Only pesticides approved and registered with the department shall be used for insect and rodent control. Pesticides shall be used only in accordance with the manufacturer's directions and shall be used, handled, and stored in such a manner as to preclude the contamination of frozen desserts, their ingredients, containers, and equipment.

History: 1954 ACS 59, p. 28, Eff. Aug. 14, 1969.

R 285.405.11 Equipment and piping; general provisions.

Rule 11. (1) Equipment and piping in an ice cream plant shall be so designed and installed as to be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Milk pumps shall be of a sanitary type and easily dismantled for cleaning or shall be of specifically approved construction to allow cleaning in place. New or rearranged equipment shall be set

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away from any wall or spaced to facilitate proper cleaning and to maintain good housekeeping. Parts, interior surfaces, equipment, pipes (except certain piping approved to be cleaned in place), fittings, including valves and connections, shall be accessible for inspection. Cleaned-in-place sanitary piping and welded sanitary pipeline systems, when used, will be acceptable if properly engineered and installed according to 3-A accepted practices for permanently installed sanitary product—pipelines and cleaning systems.

(2) The packing glands on all agitators, pumps, and vats shall be inspected at regular intervals and kept clean.

(3) Pasteurization equipment shall be in accordance with 3-A accepted practices for sanitary construction, installation, testing, and operation of high-temperature short-time pasteurizers and 3-A sanitary standards for noncoil-type batch pasteurizers.

History: 1954 ACS 59, p. 28, Eff. Aug. 14, 1969.

R 285.405.12 Equipment and utensils; sanitary standards and construction materials.

Rule 12. New equipment in an ice cream plant shall meet applicable 3-A sanitary standards. Equipment and utensils coming in contact with milk, dairy products, mix or frozen desserts, including sanitary pumps, piping, fittings, and connections, shall be constructed of stainless steel or other equally corrosion-resistant material, except where the use of stainless steel is not practicable, or in old equipment, other metals properly coated or plated will be approved. Nonmetallic parts having product contact surfaces shall be of material that meets 3-A sanitary standards for plastic or rubber and rubber-like materials.

History: 1954 ACS 59, p. 28, Eff. Aug. 14, 1969.

R 285.405.13 Liquid sweetener containers.

Rule 13. Bulk storage and distribution equipment in an ice cream plant for handling liquid sweetening agents shall consist of suitable metals, alloys, or other materials which will withstand corrosive action by the ingredient; and the equipment and ingredients shall be protected from contamination. Pipelines containing liquid sweetening agents and liquid chocolate shall remain flooded with the ingredient to prevent mold growth, or they may be disassembled and washed.

History: 1954 ACS 59, p. 28, Eff. Aug. 14, 1969.

R 285.405.14 Cleaning of equipment.

Rule 14. (1) Immediately before use, equipment in an ice cream plant coming in contact with milk, dairy products, mix or frozen desserts shall have an effective sanitizing treatment.

(2) After each use, equipment not designed for cleaning in place, shall be disassembled and thoroughly cleaned. Dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material may be used that will not contaminate or adversely affect dairy products. Steel wool or metal sponges shall not be used in cleaning dairy equipment or utensils.

(3) Circulating-in-place cleaning shall be used only on equipment and pipeline systems designed and engineered for that purpose. Installation and cleaning procedures shall be in accordance with 3-A accepted practices for permanently installed sanitary product pipelines and cleaning systems, and be approved by the department. An outline of the cleaning procedures to be followed should be posted near the C.I.P. equipment.

History: 1954 ACS 59, p. 29, Eff. Aug. 14, 1969.

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R 285.405.15 Storage of equipment and supplies.

Rule 15. After cleaning, multi-use utensils, containers, and equipment in an ice cream plant shall be stored to drain dry, and in such a manner as not to be contaminated before usage. Equipment stored in sanitizing solution is permissible. Caps, parchment paper, wrappers, liners, gaskets, and single service sticks, spoons, covers and containers for frozen desserts, mix or their ingredients, shall be purchased and stored only in sanitary tubes, wrappings, or cartons; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manner.

History: 1954 ACS 59, p. 29, Eff. Aug. 14, 1969.

R 285.405.16 Handling of ingredients, mix, and frozen desserts.

Rule 16. (1) Milk, cream, and milk products in fluid form received at an ice cream plant for use in mixes, shall immediately be cooled to a temperature of 50 degrees Fahrenheit or less and maintained at that temperature until pasteurized. Mixes shall be assembled and pasteurized in an ice cream plant. Mix which is not frozen at the plant in which it was pasteurized shall be transported to the place of freezing in properly covered and protected containers.

(2) Spilled frozen desserts and ingredients shall be discarded. Rerun shall be handled in sanitary containers properly covered and stored, or shall be piped directly back to vats. Rerun which has been strained to remove nuts, fruits, or other ingredients, should be repasteurized. Partially full containers, if not damaged, broken, or contaminated, may be returned to the manufacturer for repasteurization and processing. After opening, it is recommended that all syrups used for flavoring or topping be refrigerated at all times. Flavoring ingredients may be added to mix after pasteurization.

(3) Frozen desserts and mix shall be packaged in commercially acceptable containers and packaging material that will protect the quality of the contents in regular channels of trade. The packaging, cutting, molding, dispensing, and other handling or preparation of mix or frozen desserts and their ingredients shall be done in a sanitary manner. Plastic or rubber gloves should be worn when handling frozen desserts for molding, cutting, or similar hand contact work.

(4) When an ice cream plant is identified by code number on containers of frozen desserts, the distributor's name and address or the retailer's name and address shall be shown on the container label.

History: 1954 ACS 59, p. 29, Eff. Aug. 14, 1969.

R 285.405.17 Standards for mix, ingredients, and frozen desserts.

Rule 17. (1) Pasteurized mix, pasteurized dairy ingredients, and frozen desserts shall comply with the following standards:

	Bacteria Count—standard plate count not more than*	Coliform Determination not more than*	Storage Temperature
Milk	50,000/ml.	10/ml.	50° F.
Cream	50,000/ml.	10/ml.	50° F.
Fluid dairy products	50,000/ml.	10/ml.	50° F.
Mix	50,000/gr.	10/gr.	45° F.**
Frozen desserts	50,000/gr.	10/gr.***	

*In 3 out of the last 5 consecutive samples taken by the department of agriculture.

**Sterile mix is not required to be stored at this temperature.

***20/gr. for chocolate, fruit, nuts, or other bulky flavored frozen desserts.

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(2) When 2 of the last 4 consecutive bacteria counts, coliform determinations, or temperatures taken on separate days, exceed the limit of the standard established in subrule (1), the department shall send a written notice thereof to the person concerned. This notice shall be in effect so long as 2 of the last 4 consecutive samples exceed the limit of the standard and shall inform the person that an additional sample will be taken within 14 days of the receipt of such notice, but not before the lapse of 3 days. It shall further state that when the standard is violated by 3 of the last 5 bacteria counts, coliform determinations, or cooling temperatures, the plant shall discontinue manufacturing the specific product involved until the cause of the violation is corrected. Court action may be instituted also.

History: 1954 ACS 59, p. 29, Eff. Aug. 14, 1969.

R 285.405.18 New frozen desserts.

Rule 18. The development of new frozen desserts is encouraged. New frozen desserts not conforming to existing standards, shall be manufactured in accordance with sanitation standards established in the act and these rules. They shall also comply with the bacteria count standards, coliform determinations, and storage temperatures where applicable, set forth in R 285.405.17. A person, firm, or corporation, prior to manufacturing and marketing any frozen dessert or mix, which varies from the standards set forth in the act or these rules, shall notify the department of its intent and shall submit for review and approval, a proposed copy of the label for such new frozen dessert or mix. Standards of identity for such new products may be included in these rules when it is determined that it is in the public interest to continue manufacturing and marketing the new frozen dessert or mix.

History: 1954 ACS 59, p. 30, Eff. Aug. 14, 1969.

R 285.405.19 Optional ingredients, sherbets, and ices.

Rule 19. (1) Optional ingredients permitted in a frozen dessert, including coloring material, are limited to those approved by the federal food and drug administration.

(2) Nonfruit sherbet shall conform to the definition of "sherbet" or "fruit sherbet," except that it shall not contain fruit ingredients or have a titratable acidity of 0.35% by weight calculated as lactic acid.

(3) Nonfruit water ice shall conform to the definition of ice, except that it shall not contain fruit ingredients or have a titratable acidity of 0.35% by weight calculated as lactic acid.

History: 1954 ACS 59, p. 30, Eff. Aug. 14, 1969.

R 285.405.21 Personnel health.

Rule 21. The plant management shall take all reasonable measures and precautions to assure the following:

(a) No person affected with a communicable disease or while a carrier of such disease shall work at an ice cream plant in a capacity which brings him in contact with the processing, handling, or storage of frozen desserts, or the containers, equipment and utensils.

(b) No person shall be employed in an ice cream plant who is suspected of having any diseases in a communicable form or of being a carrier of such disease.

History: 1954 ACS 59, p. 30, Eff. Aug. 14, 1969.

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R 285.405.23 Vehicles.

Rule 23. A vehicle, including a mobile ice cream plant used for transportation of mix, frozen desserts, and their ingredients, shall be constructed and operated so as to protect its contents from heat, sun, and contamination. The vehicle shall be kept clean, and no substance capable of contaminating mix, frozen desserts, and their ingredients shall be transported therein. Where applicable, an ice cream plant shall provide an area for unloading vehicles that can be maintained in a sanitary condition. This area should be surfaced with concrete or blacktop.

History: 1954 ACS 59, p. 30, Eff. Aug. 14, 1969.

R 285.405.24 Mobile ice cream plants.

Rule 24. (1) A mobile ice cream plant shall meet all requirements of the act and these rules exclusive of toilet facilities.

(2) A mobile ice cream plant shall have a potable water supply tank, of sufficient capacity, tilted toward a capped drain cock. The water inlet pipes shall be of removable flexible copper or other approved tubing with the nozzle for the hose connection capped and fully protected when not being used. A hose for connection to a potable water supply shall be provided and used exclusively for that purpose.

(3) A mobile ice cream plant shall have a suitable waste tank with a capacity at least equal to the water supply tank which shall be tilted toward a drain cock with an adequate method of gauging the contents. It shall be emptied and flushed as often as necessary at an approved location, in order to maintain sanitary conditions.

(4) A mobile ice cream plant shall have a refrigerated box of ample capacity for storage of the various ingredients carried, that need refrigeration, constructed of noncorrosive material, the floor of which is pitched toward a drain. Temperature shall be maintained at 45 degrees Fahrenheit or lower and it shall be equipped with an indicating thermometer.

(5) Mix to be frozen in a mobile ice cream plant should be packaged in a single-service container at the place of manufacture.

(6) A mobile ice cream plant shall have a refrigerated syrup rail with a holding plate to maintain temperatures of 50 degrees Fahrenheit or below.

(7) A mobile ice cream plant shall have a refuse can located within the mobile plant and a waste can or container for deposit of cups, papers, and other refuse by customers outside the mobile plant. Both shall be kept clean and so located as not to create a nuisance.

History: 1954 ACS 59, p. 31, Eff. Aug. 14, 1969.

R 285.405.25 Depots for mobile ice cream plants.

Rule 25. (1) Utensils, equipment, and multi-use containers in a mobile ice cream plant shall be washed and sanitized at an approved depot or in the mobile plant after each day's use.

(2) A depot shall be maintained in a sanitary condition, have a sufficient supply of hot and cold running water, and adequate facilities for the cleaning and sanitizing of equipment when used for such purposes. A depot shall provide a hose and hose connection for filling water tanks on the mobile plants and a method of hanging the hoses for draining to prevent contamination.

History: 1954 ACS 59, p. 31, Eff. Aug. 14, 1969.

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R 285.405.27 Reports.

Rule 27. A person, firm, or corporation required to be licensed under the act shall, upon request, report to the department at least once each calendar year, or as often as may be required the amount of mix and frozen desserts manufactured or processed. This does not include malts or shakes made from dipped frozen desserts, but does include those drawn direct from a freezer.

History: 1954 ACS 59, p. 31, Eff. Aug. 14, 1969.

R 285.405.29 Local zoning ordinances not superseded.

Rule 29. Nothing in these rules shall be construed to supersede existing county, city, village, or township zoning ordinances.

History: 1954 ACS 59, p. 31, Eff. Aug. 14, 1969.

REGULATION NO. 406. COTTAGE CHEESE

(By authority conferred on the commission of agriculture by section 3g of Act No. 222 of the Public Acts of 1913 and section 1 of Act No. 233 of the Public Acts of 1965, being §§288.103g and 288.21 of the Michigan Compiled Laws)

R 285.406.1 Standards and labels.

Rule 1. The standards and labeling requirements for cottage cheese, lowfat cottage cheese, and cottage cheese dry curd shall be as provided by the definitions and standards contained in the 21 C.F.R. §§19.525, 19.530, and 19.531, which is incorporated herein by reference and is available at the price of $1.75 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or the Michigan Department of Agriculture, Lewis Cass Building, Lansing, Michigan 48913.

History: 1954 ACS 80, p. 9, Eff. Sept. 17, 1974.

R 285.406.2 Present terms; use.

Rule 2. The terms creamed cottage cheese, lowfat creamed cottage cheese, and cottage cheese which are presently used in this state are legal until July 1, 1975, or until 6 months after the final effective date of the federal standards adopted in R 285.406.1, whichever date first occurs.

History: 1954 ACS 80, p. 10, Eff. Sept. 17, 1974.

REGULATION NO. 407. MILK MANUFACTURE

(By authority conferred on the department of agriculture by section 1 of Act No. 233 of the Public Acts of 1965, as amended, and section 17 of Act No. 222 of the Public Acts of 1913, being §§288.21 and 288.117 of the Michigan Compiled Laws)

R 285.407.1 Definitions.

Rule 1. As used in these rules:

(a) "Approved sample container" means and includes:

(i) A multiple-use container holding a minimum of 15 ml., but of sufficient capacity to permit mixing. Such container shall be sterilized by dry heat or steam and shall have a leakproof closure that is nontoxic; the container and closure shall be phenol free.

(ii) Sterile, evacuated sampling equipment of 10 ml. or more.

(iii) Pre-sterilized polyethylene or other suitable nontoxic containers of adequate size, or other containers which are approved by the department.

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(b) "Department" means the department of agriculture.

(c) "Farm tank" means the farm bulk milk tank used for the cooling and storage of milk prior to pickup.

(d) "Hauler" means a licensed farm pickup milk tank operator, regardless of whether the milk is picked up for grade A or manufacturing purposes.

(e) "Milk buyer" means a person, firm, association, or corporation that pays the producer for the milk.

(f) "Over-the-road milk transport tank" means a milk tank truck used for the transportation of milk and milk products. An over-the-road milk transport tank shall not be used for picking up milk at a farm.

(g) "Pickup tank" means the farm pickup milk tank used by the hauler to pick up milk at the farm and transport it to a transfer station, receiving station, milk plant, or milk manufacturing plant.

(h) "Producer" means a person who operates a dairy farm and who provides, sells, or offers milk for sale to a transfer station, receiving station, milk plant, or manufacturing milk plant.

(i) "Transfer instrument" means individually wrapped, sterile, single-service sampling tubes; stainless steel metal dippers, with long handles having capacities of 10 ml. or greater; or other transfer instruments or sampling devices approved by the department.

History: 1954 ACS 90, p. 6, Eff. Jan. 15, 1977.

R 285.407.2 Haulers; duties; prohibitions.

Rule 2. (1) A hauler shall not take milk from a farm tank without first determining that the farmer has a valid permit, where such permit is required.

(2) A hauler shall pick up only milk which appears to be normal and does not contain off odors, or visible foreign material.

(3) A hauler shall not record or report inaccurately a milk measurement taken in the farm tank. A measurement shall be made with a measuring gauge which is clean and wiped dry with a sanitary towel.

(4) After measuring the milk in the farm tank, the hauler shall promptly, accurately, and legibly record the following information on the pickup record:

(a) The gauge or stick reading.

(b) The converted gauge or stick reading in pounds.

(c) The date and time of pickup.

(d) The milk producer's name and permit number.

(e) The temperature of the milk from an accurate thermometer.

(f) The hauler's identification, including the hauler's name or initials.

(5) A hauler shall provide the original copy of the pickup record to the milk buyer and a carbon to the milk producer.

(6) During a pickup, a hauler shall take an aseptic, representative sample from each farm tank after the tank is agitated for not less than 4 minutes or for such additional time as may be necessary to obtain a representative sample.

(7) A sample dipper shall be rinsed by the hauler at least twice in the milk prior to transferring the sample to the sample container.

(8) Sample transfer instruments shall be used by haulers which are of sanitary construction, clean, and sterile, or which are sanitized with approved sanitizers and protected from contamination prior to each use.

(9) A hauler shall take a temperature control sample of the milk at the hauler's first sampling point, and shall place it in the refrigerated, insulated transport case with the first official sample.

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(10) The hauler shall identify the temperature control sample with the route number and letters "T.C."

(11) A hauler shall not sample milk in the farm tank during emptying.

(12) A hauler shall not sample milk in the farm tank with a sample container or any other unapproved transfer instrument or sampling device.

(13) A hauler shall place producer milk samples into approved sample containers only.

(14) A hauler shall place milk in sample containers only, legibly marked with:

(a) The milk producer permit number.

(b) The date of pickup.

(c) The route number.

(15) The hauler shall place milk samples in a refrigerated, insulated transport case which is kept tightly covered until the samples are delivered to the transfer point, laboratory, or other destination.

(16) The hauler shall maintain milk samples in a temperature range of 32 degrees Fahrenheit to 40 degrees Fahrenheit.

(17) A hauler shall not adulterate milk in the farm tank or the pickup tank.

(18) The farm tank shall be completely emptied by the hauler each time the unloading hose is hooked up, unless the hauler discovers that the milk does not meet legal requirements or that the pickup tank will overflow or be overloaded during periods of weight restrictions on roads.

(19) A hauler shall carry an accurate, dial-type thermometer with him on the route, and shall not pick up milk from a farm tank which exceeds the maximum temperature allowed by law.

(20) A hauler shall keep his sample transfer instrument and sample transport case clean and in good repair.

(21) A hauler shall use the hose port provided for him in the milkroom for accommodation of the pickup milk hose.

History: 1954 ACS 90, p. 7, Eff. Jan. 15, 1977.

R 285.407.3 Cleaning and sanitizing pickup tanks and milk transport tanks; records; samples.

Rule 3. (1) The owner or lessee of a pickup tank or over-the-road milk transport tank, or the agent of such owner or lessee, shall be responsible for maintaining the tank and milk contact surfaces clean and in good repair. Milk or milk products shall not be placed in such tanks unless the tanks have been properly cleaned and sanitized.

(2) Suitable facilities for cleaning and sanitizing pickup tanks and over-the-road milk transport tanks shall be provided, and the washing and sanitizing of the tanks shall be carried out by the receiving milk plant, transfer station, or receiving station, unless other mutual agreements, approved by the department, are made to have the tanks washed and sanitized. The owner, lessee, or the agent of the owner or lessee shall be responsible for cleaning the hose, pump, and valves. After the cleaning and sanitizing operation is completed, a suitable record shall be made showing who did the work, the date, and the location of the operation. The owner, lessee, or the agent of the owner or lessee, after inspection of the tank, shall indicate on the record that the tank has been cleaned to that person's satisfaction. A copy of this record shall be kept with the vehicle until it is washed and sanitized again.

(3) A hauler operating a pickup tank may make more than 1 trip daily without cleaning and sanitizing the pickup tank if the time interval between unloading and

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picking up milk again is less than 1 hour. The pickup tank shall be cleaned and sanitized after the final trip of the day.

(4) An over-the-road milk transport tank shall be cleaned and sanitized each time the tank is emptied.

(5) Milk may be picked up in the pickup tank on the return trip to the hauler's home if the pickup tank is cool enough to maintain the milk placed in it at or below the legal storage temperature, and if the pickup hose and pump are washed and sanitized, if the delay in picking up additional milk is more than 1 hour.

(6) A pickup tank or an over-the-road milk transport tank may be used to haul potable water, or other wholesome liquid food products, if the milk contact surfaces are properly cleaned and sanitized prior to picking up milk.

(7) A milk transfer station or receiving station shall keep daily records identifying which farm loads of milk have been commingled in each over-the-road milk transport tank. These records shall be kept at the transfer station or receiving station for not less than 30 days.

(8) Producer samples shall accompany the transport tank holding the largest amount of the farm pickup truck's milk, unless the samples are transferred or held for testing at other locations.

History: 1954 ACS 90, p. 8, Eff. Jan. 15, 1977.

R 285.407.4 Qualifications of grade A plant for reduced licensing fee; milk quality tests and records; determining sediment content; acceptance or rejection of milk.

Rule 4. (1) Grade A milk plants, receiving stations, and transfer stations that are first receiving points of dairy farm milk may qualify for a reduced license fee by carrying out a farm supervision program with certified personnel, as referred to in section 2(1)(a) of Act No. 233 of the Public Acts of 1965, as amended, being §288.22(1)(a) of the Michigan Compiled Laws. For this purpose, a farm supervision program is interpreted to include:

(a) A farm inspection of all milk producers having the first routine count exceeding legal standards for bacteria or somatic cells, or both.

(b) One routine inspection per year of all milk producers, with a copy of each required inspection forwarded to the local area dairy inspector.

(2) A purchaser of grade A or manufacturing raw milk or both, shall be responsible for making the quality tests on raw milk, at the producer level, that are required by law. The test results shall be reported to the department as requested. Records of the quality test results on manufacturing milk shall remain on file with the purchaser for a period of 1 year.

(3) Methods for determining the sediment content of milk shall be those described in the latest edition of standard methods for the examination of dairy products, a publication of the American Public Health Association, 1790 Broadway, New York, New York. Sediment content shall be based on comparison with official United States department of agriculture sediment standards, 7 C.F.R. §§58.2726 to 58.2731.

(4) If the sediment disc is classified as no. 1, no. 2, or no. 3, the producer's milk may be accepted. If the milk contains more sediment than a no. 3, it is considered rejectable.

History: 1954 ACS 90, p. 8, Eff. Jan. 15, 1977.

R 285.407.5 Dairy farm; requirements as to farm tanks, facilities, milk production, and conversion chart.

Rule 5. (1) A farm tank on a dairy farm shall be installed so as to remain level at all times.

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(2) A farm tank shall have an indicating thermometer.

(3) A farm tank shall have an accurate, legible, volume to weight conversion chart, unless the farm tank is mounted on an accurate scale. Other measuring devices may be used when such devices are approved by the department.

(4) A conversion chart shall bear the same serial number as that found on the farm tank and measuring rod.

(5) The producer is responsible for recalibrating a farm tank that does not have an accurate conversion chart. A recalibration shall be in accordance with methods and procedures approved by the department. A person shall not adjust, alter, or change a conversion chart unless the change, alteration, or adjustment is made strictly according to methods and procedures approved by the department.

(6) A farm tank shall not be filled to a capacity which exceeds the calibrated limits as indicated by the conversion chart. If the producer wishes to fill the tank nearer to the top, the tank shall be calibrated to an additional height which still permits proper agitation without spillage.

(7) Milk to be offered for sale shall be cooled and stored in the farm tank. Other cooling and storage facilities may be used when approved by the department.

(8) Milk production shall be of sufficient quantity so that it can be properly agitated not later than at the completion of the first milking into the farm tank.

(9) Facilities for effectively sanitizing farm tanks shall be provided by the producer.

(10) A farm tank, when used for the cooling and storage of raw milk on the farm where the raw milk is intended for manufacturing purposes, shall be located in a suitable milkroom. Suitable milkroom facilities shall include the following:

(a) Milkroom floors which are impervious and properly sloped to drain. Floor drains shall be located so as to be accessible for cleaning, and shall be of such size as to allow for proper draining.

(b) Walls and ceilings which are substantially impervious to moisture, clean, tight, and kept in good repair. Exposed studding and rafters are acceptable. Doors and windows, if provided, shall be kept clean and in good repair. An access door shall be provided to enter the milkroom and shall be tight-fitting and self-closing. If doors and windows are to be left open during fly season, screens shall be provided.

(c) Adequate and suitable facilities for the cleaning and sanitizing of containers, equipment, utensils, and the farm tank with hot and cold water under pressure.

(d) Adequate artificial lighting and ventilation. A ventilator or electric light shall not be located directly over farm tank openings. A water line shall not be installed directly over farm tank openings.

(e) An opening in the wall to accommodate the connection of the pickup tank hose without leaving the milkroom door open.

(f) An electrical outlet that permits connecting the pickup tank pump without leaving the milkroom door open.

(g) A farm tank and milkroom shall be used for milk handling purposes only, and shall be maintained in a clean, sanitary condition.

History: 1954 ACS 90, p. 9, Eff. Jan. 15, 1977.

R 285.407.6 Responsibility of person possessing milk sample; record.

Rule 6. A person involved in the chain of possession during delivery of milk samples to a laboratory is responsible for the proper handling and preservation of the samples while in his possession. A record of the control sample temperature,

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time, date, and the condition of the samples shall be recorded at each sample transfer point where samples are removed from the transport case and placed in another cold storage box, cabinet, or chest. This record shall accompany the samples and control samples to the laboratory, and shall be kept at the laboratory for a period of 3 months. The sample transfer record form to be used shall be approved by the department.

History: 1954 ACS 90, p. 10, Eff. Jan. 15, 1977.

REGULATION NO. 408. FLUID MILK AND MILK PRODUCTS

(By authority conferred on the department of agriculture by section 1 of Act No. 233 of the Public Acts of 1965, as amended, being §288.21 of the Michigan Compiled Laws)

R 285.408.1 Definitions.

Rule 1. (1) "Container" includes the closure.

(2) "Department" means the department of agriculture.

(3) "Date" means the recommended last day of sale.

(4) "Milk and milk products" means and includes cream, light cream, coffee cream, table cream, whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk and milk products, skim milk, skimmed milk, nonfat milk, lowfat milk, fortified milk and milk products, vitamin D milk and milk products, homogenized milk, flavored milk and milk products, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, yogurt, lowfat yogurt, acidified milk and milk products, grade A cottage cheese, grade A lowfat cottage cheese, grade A dry curd cottage cheese, grade A egg nog, and other milk products which may be defined in the future under Act No. 233 of the Public Acts of 1965, as amended, being §288.21 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 89, p. 8, Eff. Oct. 21, 1976.

R 285.408.2 Last day of sale.

Rule 2. (1) Each processor and manufacturer of milk and milk products sold in this state shall place on each container of milk and milk products a recommended last day of sale by month and day.

(2) The date shall be expressed by the first 3 letters of the month followed by the numeral designating the appropriate calendar day, or by expressing the calendar month numerically followed by a numeral designating the calendar day. For example, September 9 may be expressed as "Sep.09" or "9.09." When the numerical expression is used, a day numbering less than 10 shall be shown with a zero as the first digit; for example, 01 or 03.

(3) The date shall appear on that part of the container that is most likely to be displayed, presented, or shown under customary display conditions of sale. However, a cup container may have the date placed on the bottom.

(4) The date on the container shall be legible and shall not interfere with the legibility of other information required to be on the product.

History: 1954 ACS 89, p. 8, Eff. Oct. 21, 1976.

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R 285.408.3 Time interval of date.

Rule 3. Processors and manufacturers of milk and milk products shall register the following information with the department on forms provided by the department:

(a) The assigned date of each milk and milk product processed and the length of time between production and the date. This length of time shall be substantiated by plant records of a testing program conducted by the processor or manufacturer.

(b) The method of application, and location of the date, for each size and style of container.

(c) Changes in the time interval of the date prior to the effective day of the change.

History: 1954 ACS 89, p. 9, Eff. Oct. 21, 1976.

R 285.408.4 Flavor.

Rule 4. (1) Milk and milk products shall maintain nutritional levels and shall not have a flavor change before the date.

(2) The department shall periodically sample and analyze milk and milk products to determine if the flavor has changed by the date. Milk and milk products obtained for analysis by the department prior to the date shall be stored at a temperature of 44 degrees Fahrenheit, plus or minus 1 degree, until analyzed.

(3) The processor or manufacturer of milk or milk products which do not maintain their flavor until the date shall, upon receipt of written or verbal notice from the department, make the changes necessary to improve product quality or alter the date so as to comply with these rules. The processor or manufacturer is not responsible for milk and milk products when the nutritive value loss or flavor deterioration of those products can be determined to be caused by mishandling, improper storage, or lack of refrigeration at points beyond his control.

History: 1954 ACS 89, p. 9, Eff. Oct. 21, 1976.

R 285.408.5 Sale after date.

Rule 5. (1) Milk and milk products shall not be offered for sale after the date, unless they are advertised to the final consumer in a prominent manner as being beyond the recommended last day of sale.

(2) The final seller is fully responsible for the proper advertisement of milk and milk products sold beyond the date.

History: 1954 ACS 89, p. 9, Eff. Oct. 21, 1976.

FOOD INSPECTION DIVISION

REGULATION NO. 502. GRADING, LABELING, AND MARKETING OF TOMATOES

(By authority of Act No. 91 of the Public Acts of 1915, as amended, being §285.31 et seq. of the Michigan Compiled Laws)

R 285.502.1 Grading, labeling, and marketing of tomatoes.

Rule 1. (1) Because the tomatoes grown in Michigan comprise one of our major agricultural crops and the business of selling and distributing depends on quality pack, it is deemed necessary to promulgate Michigan grades for the successful continuance of the Michigan tomato industry. Such grades may be used in lieu of U.S. grades.

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(2) Michigan No. 1:

Shall consist of tomatoes of similar varietal characteristics which are mature but not overripe or soft; which are fairly well formed, free from decay, freezing injury, and from damage caused by dirt, bruises, cuts, sunscald, sunburn, puffiness, scars, catfaces, growth cracks, insects, hail, and free from visible disease at shipping point. In order to allow for variations incident to proper grading and handling, not more than 10%, by count, of the tomatoes in any lot may be below the requirements of this grade but not more than 1/10 of this amount, or 1%, shall be allowed for soft ripe tomatoes or tomatoes affected by decay. However, when a tolerance of 10% is provided, individual containers in the lot cannot exceed 1½ times the tolerance, and when a tolerance of less than 10% is provided, individual containers shall not contain more than double the tolerance.

(3) Michigan No. 2:

Shall consist of tomatoes of similar varietal characteristics which are mature but not overripe or soft; not badly misshapen; free from decay, unhealed cuts, freezing injury, and from serious damage caused by bruises, sunscald, sunburn, catfaces, growth cracks, scars, disease, hail, or mechanical or other means; puffiness; insects. In order to allow for variations other than size incident to proper grading and handling, not more than a total of 10% by count, of the tomatoes in any lot may be below the requirements of this grade but not more than 1/10 of this amount, or 1%, shall be allowed for soft ripe tomatoes or tomatoes affected by decay.

(4) Unclassified:

Tomatoes not meeting the foregoing grades or any of the U.S. grades shall be marked "Unclassified."

(5) Grade marks:

The name and address of packer with grade declared must be legibly and conspicuously printed or stamped on ends of containers in letters not less than ¼ inch in height. Only Michigan grown and packed tomatoes may carry Michigan grades. No person, firm, association, or corporation shall sell or have in possession with intent to sell any tomatoes not graded and labeled as set forth in this rule and in section 283 of Act No. 328 of the Public Acts of 1931, being §750.283 of the Michigan Compiled Laws.

(6) Definitions of terms as used in these grades:

(a) "Similar varietal characteristics" means that the tomatoes are alike as to firmness of flesh and shade of color, i.e., that soft-fleshed early maturing varieties are not mixed with firm-fleshed mid-season or late varieties, or bright red varieties mixed with varieties having a purplish tinge.

(b) "Mature" means that the contents of the seed cavities have begun to develop a jelly or glue-like consistency and the seeds are well developed.

(c) "Fairly well formed" means that the tomato is not decidedly kidney shaped, lopsided, elongated, angular, or otherwise deformed.

(d) "Damage" means any injury which materially affects the appearance or the edible or shipping quality. The following shall be considered as damage:

(i) Cuts which are not shallow, not well healed, or more than ½ inch in length.

(ii) Puffy tomatoes. These tomatoes are usually angular and flat-sided. They are damaged if open space in 1 or more locules materially affects the appearance when the tomato is cut through the center at right angles to a line running from the stem to the blossom end.

(iii) Scars (except catfaces) when aggregating more than ¾ inch in diameter.

(iv) Catfaces when scars are rough or deep, when channels are very deep or wide, of if catface is fairly smooth with an area greater than that of a circle ¾ inch in diameter.

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(v) Growth cracks (radiating from or concentric to stem scar) when not well healed, or when individual radial cracks are more than ⅛ inch in length not to exceed an aggregate length of all radial cracks of 1⅛ inch, measured from the stem scar. Concentric cracks permitted which do not affect the appearance of the tomato to a greater extent than the maximum radial cracks permitted.

(e) "Badly misshapen" means that the tomato is so badly deformed that its appearance is seriously affected.

(f) "Serious damage" means any injury which seriously affects the appearance, edible or shipping quality, or which cannot be removed in the ordinary process of trimming without a loss of more than 20%, by weight, of the tomato in excess of that which would occur if the tomato were perfect. The following shall be considered as "serious damage":

(i) Soft ripe tomatoes or tomatoes affected by decay.

(ii) Fresh holes, or cuts through the tomato wall.

(iii) Tomatoes showing any effects of freezing.

(iv) Puffiness which causes the tomato to be distinctly light in weight.

(v) Tomatoes actually infested with worms.

(vi) Catfaces: These are irregular, dark leathery scars at the blossom end of the tomato. Such scars seriously damage the tomato when they are fairly smooth and greater in area than a circle 1 inch in diameter, or when rough or deep, or when channels extend deeply into the tomato.

(vii) Growth cracks: These are ruptures or cracks radiating from the stem scar, or cracks concentric to the stem scar. They seriously damage the tomato when not well healed, or when more than 1 inch in length, not to exceed 3 cracks to the tomato, except that a very narrow well healed crack concentric to the stem scar shall not be considered as serious damage unless they are so numerous as to seriously damage the appearance of the tomato.

History: 1944 AC, p. 59; 1954 AC, p. 1527; 1954 ACS 22, p. 51, Eff. May 13, 1960; 1954 ACS 28, p. 31, Eff. May 15, 1961.

REGULATION NO. 503. SOFT DRINKS

R 285.503 Rescinded.

History: 1944 AC, p. 59; 1954 AC, p. 1528; rescinded 1954 ACS 63, p. 12, Eff. Aug. 14, 1970.

REGULATION NO. 504. SECONDHAND GLASS CONTAINERS

R 285.504 Rescinded.

History: 1944 AC, p. 61; 1954 AC, p. 1528; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 505. HONEY

(By authority of Act No. 91 of the Public Acts of 1915, being §287.181 et seq. of the Michigan Compiled Laws)

R 285.505.1 Sale of honey.

Rule 1. (1) No person shall offer or expose for sale, have in possession with intent to sell, or sell, extracted honey in retail packages that does not conform to the standards of the United States department of agriculture for U.S. grade fancy.

(2) In addition, the package must be clearly labeled "white," "amber," or "dark" according to the color of the honey contained therein compared to the standard scale of the Pfund honey grader.

(3) No person shall offer or expose for sale, have in possession with intent to sell, or sell, comb honey that does not conform to the standards of the United States department of agriculture for U.S. grade No. 2, or better, unless each

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package be clearly marked on the outside "cull." Each package must be marked with the minimum net weight of the honey it contains.

(4) This rule shall not apply to the beekeeper when offering honey produced by himself direct to the consumer.

(5) A certificate of grade will be issued to any person or firm packing honey in the state of Michigan who submits a sample for inspection to the bureau of foods and standards, department of agriculture, Lansing, Michigan. The packer will be authorized to reproduce this certificate on any package containing honey having the same characteristics as the sample, within prescribed limits.

(6) The services of the state inspector will be available to grade bulk packages (cases of comb honey or 60-pound cans of extracted honey). Application for such inspection may be made by any producer, shipper, buyer, or prospective buyer of honey. The applicant shall provide the labor incident to handling the honey for the purpose of taking samples, and will be charged a fee of 1¢ per case of comb honey and 1½¢ per 60-pound can of extracted honey inspected.

History: 1944 AC, p. 61; 1954 AC, p. 1529.

REGULATION NO. 506. ADOPTION OF NATIONAL SPECIFICATIONS

R 285.506 Rescinded.

History: 1954 ACS 12, p. 28, Eff. Nov. 21, 1957; rescinded 1954 ACS 44, p. 24, Eff. Nov. 14, 1985.

REGULATION NO. 507. INSPECTION OF POTATOES

R 285.507

History: 1944 AC, p. 62.
Editor's note: R 285.507, pertaining to the inspection of potatoes, appears to have been superseded by R 285.512.

REGULATION NO. 508. MARKING OF NET WEIGHT

R 285.508 Rescinded.

History: 1944 AC, p. 63; 1954 AC, p. 1530; rescinded 1954 ACS 44, p. 24, Eff. Nov. 14, 1985.

REGULATION NO. 509. EDIBLE SHELL NUTS

R 285.509 Rescinded.

History: 1944 AC, p. 63; 1954 AC, p. 1530; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 510. SALE OF COAL, COKE OR CHARCOAL

R 285.510 Rescinded.

History: 1944 AC, p. 63; 1954 AC, p. 1530; rescinded 1954 ACS 44, p. 24, Eff. Nov. 14, 1985.

REGULATION NO. 511. MANUFACTURE OF SAUSAGE

R 285.511 Rescinded.

History: 1944 AC, p. 64; 1954 AC, p. 1531; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 512. TABLE STOCK POTATOES

R 285.512 Rescinded.

History: 1944 AC, p. 64; 1954 AC, p. 1531; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 513. COMMERCIAL CANNING AND PRESERVING FACTORIES

R 285.513 Rescinded.

History: 1944 AC, p. 65; 1954 AC, p. 1532; rescinded 1954 ACS 76, p. 8, Eff. Aug. 21, 1973.

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REGULATION NO. 514. FOODS AND BEVERAGES OFFERED FOR SALE

(By authority of Act No. 344 of the Public Acts of 1917, being §289.201 et seq. of the Michigan Compiled Laws)

R 285.514.1 Foods and beverages offered for sale at fairgrounds, circus grounds, carnivals, parks, resorts, and roadside stands.

Rule 1. (1) All stands where food is served to the public shall be constructed of substantial materials and provided with durable roofs.

(2) All concessions serving food or drink must have all cooking, processing, or preparation areas properly covered so that food will be protected at all times from dust, dirt, insects, rodents, and other contamination. All such concessions must be provided with a plentiful supply of hot water for washing dishes and other utensils.

(3) Equipment used in the cooking of "hot dogs," "hamburgers," steaks, or other foods or in the preparation of other foods, such as candy and candy-coated apples, must be enclosed on at least 3 sides with covers extending entirely over such equipment.

(4) All foods must be kept covered and protected from dust, dirt, and insects at all times. Soda straws must be individually wrapped, sugar bowls and condiment containers properly covered. This rule shall not prohibit the use of individually wrapped or packaged portions of such items.

(5) Cooking of foods in the open will not be permitted. No food or drink concession may be operated within 50 feet of a stable, refuse pile, or outside toilet not connected to a sewer or septic tank.

(6) All garbage must be kept covered in fly-tight, durable containers and removed daily.

(7) Beverages and all other drinks, except tea and coffee, must be served in sanitary individual cups or closed individual containers. A new cup must be used for each person served. Such beverages must be drawn or served from cooler bottles or closed containers. No dipping of such products will be permitted.

(8) All water and ice must be from a tested and approved source of supply. All mills and juice presses shall, while in operation, be covered and protected from dust, dirt, rodents, insects, or other possible contamination.

(9) All forms of ice, used as part of any food or drink in its preparation, must be clean and free from any foreign material or contamination. Supplies of such ice must arrive at any fairgrounds, carnival or circus grounds, parks, resorts, or roadside stands in clean, closed bags, packages, or containers as prepared at the point of manufacture.

(10) No cold beverages, other than orangeade and lemonade, shall be made on any fairgrounds, carnivals, parks, resorts, or roadside stands, unless made from syrup which has been registered with the Michigan department of agriculture. (§289.403 of the Michigan Compiled Laws)

(11) All such drinks and any other nonalcoholic beverages that contain "artificial color" must be so labeled. Any such drink containing "artificial flavor" of any character shall be labeled "imitation," said labels to be prominently displayed to the public on all dispenser containers. "Artificial color," "artificial flavor," or "imitation," whenever applicable, shall precede and be in equal size type with the name of the imitated fruit juice following. All display signs must conform to the aforementioned requirements. (§289.409 of the Michigan Compiled Laws)

(12) All concessions dispensing food or drink must be equipped with available handwashing facilities on the immediate premises. Individual towels and plenty of soap shall be provided at all times.

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(13) Adequate refrigeration for perishable foods must be maintained and readily available.

(14) All cooked, partially cooked, baked, or fried foods must be kept hot (at least 130 degrees Fahrenheit) or cold (50 degrees Fahrenheit or less) and may not be displayed openly unless such requirements are maintained, except those products which do not, under good commercial practices, require refrigeration or heating to safeguard their quality.

(15) All prepared foods and drinks must be packaged, wrapped, or completely protected from contamination when offered for sale, delivered to, or sold within the lot or grounds at locations other than where prepared.

(16) The provisions of this rule requiring the covering and enclosure of cooking areas shall not apply to open pit barbeques when such installations are approved by the department of agriculture.

History: 1944 AC, p. 66; 1954 AC, p. 1533; 1954 ACS 26, p. 32, Eff. May 15, 1961.

REGULATION NO. 515. LICENSING OF CANNING PLANTS

(By authority of Act No. 411 of the Public Acts of 1919, as amended, being §289.121 et seq. of the Michigan Compiled Laws)

R 285.515.1 Licensing of canning plants.

Rule 1. License to engage in the business of canning or preserving fruits and vegetables for sale shall be issued as provided in Act No. 411 of the Public Acts of 1919, as amended, and it is hereby declared to be the intent and purpose of the act and necessary for the proper enforcement thereof that for each factory or establishment used for canning or preserving fruits or vegetables, there shall be paid a $25.00 license fee as provided in said act.

History: 1944 AC, p. 67; 1954 AC, p. 1534.

REGULATION NO. 516. LICENSING

R 285.516 Rescinded.

History: 1944 AC, p. 67; 1954 AC, p. 1534; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 517. CHICORY AND OTHER SUBSTITUTES

R 285.517 Rescinded.

History: 1944 AC, p. 67; 1954 AC, p. 1534; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 518. EGGS

R 285.518 Rescinded.

History: 1944 AC, p. 68; 1954 AC, p. 1535; rescinded 1954 ACS 37, p. 7, Eff. Feb. 14, 1964.

REGULATION NO. 519. SLAUGHTERHOUSES

R 285.519 Rescinded.

History: 1944 AC, p. 69; 1954 AC, p. 1536; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 520. TOMATOES NOT RIPENED ON VINE

(By authority of Act No. 344 of the Public Acts of 1917, being §289.201 et seq. of the Michigan Compiled Laws)

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R 285.520.1 Marking and designation of tomatoes not ripened on vine.

Rule 1. (1) The obvious intention of Act No. 113 of the Public Acts of 1939, having been to prohibit the retail sale of tomatoes that were not "vine ripened" as "vine ripened" tomatoes, and it appearing that for the best interest of all concerned, including the producer, seller and purchaser, that only such marking as will properly and thoroughly apprise the purchaser of the kind of article he is buying is necessary.

(2) It is hereby ordered that a seller who conspicuously marks by a placard placed in or upon the container from which tomatoes not ripened on the vine are sold that such tomatoes are not "vine ripened" shall be sufficient to comply with the intention of Act No. 113 of the Public Acts of 1939. The following wording shall be used "not vine ripened."

History: 1944 AC, p. 69; 1954 AC, p. 1536.

REGULATION NO. 521. FROZEN FOOD LOCKER PLANTS

R 285.521 Rescinded.

History: 1944 AC, p. 70; 1954 AC, p. 1536; rescinded 1954 ACS 76, p. 8, Eff. Aug. 21, 1973.

REGULATION NO. 523. DRY EDIBLE BEANS

(By authority of Act No. 191 of the Public Acts of 1915, as amended, being §285.51 et seq. of the Michigan Compiled Laws)

R 285.523.1 Michigan standards for dry edible beans.

Rule 1. (1) Michigan standards for dry edible beans are as follows:

HANDPICKED BEANS

Grade Requirements

Grade	Maximum limits of—					
	Defects consisting of splits, damaged beans, contrasting classes and foreign material				Other Classes that Blend[2]	Average Color of Crop Year
	Total Defects[4/5]	Badly Damaged	Contrasting Classes	Foreign Material		
	Percent	Percent	Percent	Percent	Percent	
Michigan Choice Handpicked	1.5	0.3	.01	.01	5.0	Good
Michigan Prime Handpicked	3.0	0.3	.01	.01	5.0	Fair

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SCREENED BEANS

Grade Requirements

Grade	Maximum limits of—					
	Defects consisting of splits, damaged beans, contrasting classes and foreign material				Other Classes that Blend[1/2/3]	Average Color of Crop Year
	Total Defects[4/5]	Contrasting Classes	Foreign Materials			
			Total	Stones		
	Percent	Percent	Percent	Percent	Percent	
Michigan No. 1	2.0	0.5	0.4	0.2	5.0	Good
Michigan No. 2	3.0	1.0	0.8	0.4	10.0	Fair

[1]The beans of the class of yelloweye in any established grade may contain not over 12% of white beans similar to yelloweye in size and shape.

[2]The beans in the class of red kidney may contain sports, faders, and blue beans in amounts not to exceed 3% in Michigan choice handpicked, Michigan prime handpicked, or Michigan no. 1, and 5% in Michigan no. 2 grade.

[3]The beans in the classes of cranberry and pinto may contain faintly or indistinctly mottled beans of the same type not to exceed 3% in Michigan no. 1, and 4% in Michigan no. 2 grade.

[4]The beans in the classes of cranberry, pinto, marrowfat, and yelloweye may contain an additional 2% split, but otherwise sound, beans of the same class in any of the established grades.

[5]The total maximum tolerance for defects in kidney beans shall be 2% in Michigan choice handpicked and Michigan no. 1, and 4% in Michigan prime handpicked and Michigan no. 2 grades. Other specifications shall conform with the preceding table.

(2) All graded beans shall be dry and well screened, show evidence of being well processed and graded, and shall possess a clean natural odor, and shall be free from highly objectionable foreign material.

SPECIAL GRADES

Requirements

(3) Split Michigan beans shall be beans of any class which have been split or broken and may contain not to exceed 5% of otherwise damaged beans, 1% of foreign material and 2% of contrasting classes; the sample shall be reasonably free from chaff, dust, and loose skins or seed coats.

(4) Mixed split Michigan beans shall be a mixture of 2 or more classes of split and broken beans and may contain not to exceed 5% of otherwise damaged beans, 1% of foreign material and the sample shall be reasonably free from chaff, dust, and loose skins or seed coats.

History: 1954 ACS 18, p. 28, Eff. May 15, 1959.
Editor's note: For text and history of prior provisions of R 285.523, see 1954 AC, p. 1540.

R 285.523.2 Definitions.

Rule 2. (1) "Percentages," except in the case of moisture, shall be percentages ascertained by weight.

(2) "Percentage of moisture" shall be that ascertained by the water oven or air oven and the method of use thereof described in service and regulatory announcement no. 147 of the agricultural marketing service of the United States department of agriculture, or that ascertained by any device and method which gives equivalent results. Moisture content shall be designated in units of half percent

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and whole percent. A fraction of a percent when equal to or greater than ½ shall be stated as ½ and when less than ½ shall be disregarded.

(3) "Sound beans" shall be beans which have a natural odor, and are free from must, mold, damage, and other defects.

(4) "Peewee or small beans." All sound navy or peabeans which screen out by using a 13/64 x ¾ inches slotted bottom screen but will ride over a 9/64 x ¾ inches shall be known as "Peewee" and the regular grade requirements for dry beans shall apply in the grading thereof. The inspection certificate shall bear the "Peewee" designation and the labeling on the package shall also include this designation.

(5) "Mixed beans" shall be defined as any lot of dry edible beans being composed of 2 or more classes mixed together, the mixture en masse shall meet the regular grade requirements for the predominating class in the sample in all respects except for the presence of sound split beans of any class, sound sports or faders, and other classes.

(6) "Defects" shall include splits, damaged beans, contrasting classes, and foreign material.

(7) "Splits" shall be pieces of beans which are not damaged and which consist of three-fourths or less of the whole bean and shall include beans the halves of which are held together loosely, but shall not include beans with only cracked or checked skins.

(8) "Damaged beans" shall be beans and pieces of beans which are injured or discolored by frost, weather, diseases, insects, or other causes so as to affect the appearance and quality of the sample.

(9) "Badly damaged beans" shall be beans and pieces of beans which are seriously injured or discolored by frost, weather, diseases, insects, or other causes as to seriously affect the appearance and quality of the sample.

(10) "Foreign material" shall include stones, dirt, weed seeds, cereal grains including corn, soy beans, and all matter other than dry edible beans.

(11) "Stones" shall be rocks, stones, pebbles, shale, other concreted earthly matter, or other substances of similar composition and hardness that do not readily disintegrate in water.

(12) "Contrasting classes" shall be beans of other classes which are of a contrasting color, size, or shape to the beans of the class designated.

(13) "Other classes that blend" shall be sound beans of other classes which are similar in color, size, and shape to the beans of the class designated, and shall not include sports in the classes of light red kidney, dark red kidney, and western red kidney.

(14) "Weevily beans" shall be beans which are infested with weevils or other insects injurious to stored beans or which contain beans that have been damaged by such weevil or insects.

(15) "Well screened," as applied to the general appearance of beans, shall mean that the beans are practically free from such small, shriveled, undeveloped, split, and broken beans, large beans, and foreign material, as can be readily removed by the ordinary process of milling and screening through the proper use of top and bottom mill screens, as are generally recognized by the bean industry. The recognized top and bottom screen sizes to be used in combination on navy or pea beans are as follows:

Minimum Bottom	Maximum Top
13/64" x ¾" slotted with	No. 20 or 29/64" diameter perforation
11/64" x ¾" slotted with	No. 21 or 21/64" diameter perforation
13/64" x ¾" slotted with	No. 22 or 23/64" diameter perforation

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Recommended minimum bottom and maximum top screen sizes for use in screening colored beans are as follows:

Cranberry		Yelloweye		Kidney	
Top range	Bottom	Top range	Bottom	Top range	Bottom
26 - 28	13/64" x 3/4"	24 - 26	13/64" x 3/4"	26 - 30	13/64" x 3/4"

(16) "Handpicked" shall be a qualitative descriptive term for beans which have been actually handpicked or otherwise processed in order to meet all specifications and requirements for handpicked grades as established and shall not apply to numerical grades, or "off-color" beans.

(17) "Graded beans" shall be dry, edible beans, the quality and condition of which meet the requirements of any one of the specific handpicked and numerical grades as promulgated.

(18) "Picking stock" beans also known as beans of "no established grade" shall be dry beans of any class which fail to qualify for at least one grade of either the "handpicked" or "screened" grades because of condition, excessive total defects, other disqualifying factors, or which have not been well screened or well processed.

(19) "Off-color beans" shall be beans of any class that en masse after removal of defects, will not qualify for good or fair color under the standards but are distinctly below normal color standards, due to age, slight immaturity, slight frost and sunburn or bleach, slight pod stain, or any other natural cause, but which are not materially weathered and are otherwise sound. Off-color beans shall be graded and designated according to the grade requirements of the standards applicable to such beans if they were not off-color but shall not apply to "Handpicked and No. 1 grades" and there shall be added to and made a part of the grade designation following the name of the class, the word "Off-color."

History: 1954 ACS 18, p. 27, Eff. May 15, 1959.

R 285.523.3 General regulations and requirements.

Rule 3. (1) All dry edible beans grown in Michigan and placed in consuming trade channels shall be graded and meet the requirements and specifications of the official Michigan grades for dry beans before being offered for sale, sold, or purchased, except as provided in subrule (5).

(2) The person, firm, association, or corporation responsible for placing such beans into consuming trade channels, or placing same on the market for resale or consumption, shall be responsible for the grading, labeling, packing, and inspection thereof.

(3) Grading, labeling, and official inspection shall be mandatory at point of origin on the lot or shipment as follows:

(a) All containers (100# or less) shall be conspicuously and legibly labeled on the face thereof showing:

(i) The net weight of the contents.

(ii) The name of the product, including the name of Michigan when produced in this state.

(iii) The official state grade into which the contents classify.

(iv) The name and address of the person or firm responsible for placing the product on the market.

(b) On 100# bags or containers for shipment to canners, packagers, and processors and when there is positive assurance that the beans will not be displayed to the consuming public in the original shipping container, the grade

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labeling may be shown as in subdivision (a) or the shipper may declare the grade by use of a placard as described in R 285.523.4(5), under the heading "regulations governing grading, labeling, and inspection." All other labeling as required in subdivision (a) shall appear in its entirety. The shipper and/or packer whose name must appear on the bag or container will be held fully responsible for any diversion of shipments not bearing the grade label on the individual bag or container.

(c) Every lot or shipment shall be graded and inspected by a licensed bean inspector who shall issue an official grading and inspection certificate thereon before the lot may be transported or shipped for consuming purposes.

(4) Graded beans may be shipped in bulk only to canners, packagers, and processors, subject to the compulsory inspection requirements of these rules and including the following special requirements:

(a) All conveying vehicles must meet the required specifications as follows:

(i) The floors, walls, and ceilings must be thoroughly cleaned and tightly fitted to protect the load from the weather, contamination, and extraneous matter. Said vehicles must also be free from objectionable foreign odors.

(ii) Must allow for adequate space above the loaded mass to permit thorough sampling throughout the length and depth of the load and also to provide for circulating air space between the top of load and the roof of vehicle.

(iii) Type and construction of any conveyance which might be considered hazardous to the inspector or prevent the performance of his duties as prescribed for adequate and thorough sampling and inspection shall be considered as inadequate and unsatisfactory.

(5) Picking stock or ungraded beans may be transported within the state for the purpose of storage or processing to grade only.

(6) Transporting agents must have credentials in their possession, when transporting picking stock beans, to prove beyond a doubt that the load is being legitimately and legally transported and delivered.

(7) The standard moisture content of beans defined in the above grades shall be not in excess of 18% moisture and within the limits of the tolerance as defined. High moisture beans shall be graded and designated according to the grade requirements of the standards otherwise applicable; and there shall be added to and made a part of the grade designation, in every case of high moisture content, following the name of the class, the words, "except moisture," followed by a statement of the percentage thereof in terms of whole percent and half percent, and such statement must appear on the inspection certificate to establish and protect the grade.

(8) Official bean inspection certificates declaring an established grade may not be issued by any authorized inspector until and unless all the containers and conveyances conform to all labeling and condition requirements.

History: 1954 ACS 18, p. 29. Eff. May 15, 1959.

R 285.523.4 Regulations governing grading, labeling, and inspection.

Rule 4. (1) All dry edible beans, before being placed into any trade channels, for human consumption, precooking, manufacturing, or canning, through purchase, sale or by transportation, shall be graded, labeled, or placarded, and officially inspected by an inspector duly licensed by the Michigan department of agriculture.

(2) All bags or containers used in packing and shipping graded beans shall be standard, sound, clean, free from holes, neatly and legibly printed or stenciled.

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(3) The name of the product, including the word "Michigan" when grown in Michigan, the official state grade of the beans, the net weight, and the name and address of the person or firm responsible for placing the product on the market, must appear on the face of the bag, carton, parcel, or package, or on a tag affixed to such bag, carton, parcel, or package. The labeling shall be legible, conspicuous, neatly and uniformly applied, and subject to the following specifications and requirements.

(a) Unless the word "Michigan," the varietal name, and the word "beans" appear on the container as a part of the trademark or identification they must appear in the declaration of the grade in the following order and form: "Michigan Choice Handpicked Navy Beans," or "Michigan No. 1 Light Red Kidney Beans."

(b) On containers holding 25 pounds or more the letters and figures used in the labeling shall be not less than 1½ inches in height, and on smaller containers shall be appropriate for, and consistent with, the size of containers used, but at no time shall the lettering be less than ¼ inch in height; except that, when bags or packages holding 25 pounds or more are rebranded by stenciling, the maximum size of the letters or figures made by using a standard stencil cutting machine shall be recognized and accepted.

(c) When the shipper so desires, all the required labeling may appear on a tag made from cloth or tough paper. This tag may not be less than 2½ x 5 inches in size and shall be furnished by the shipper and securely attached to the top and outside of the package. When all but the proper grade labeling, the name and address of the packer or distributor and/or the net weight appears on the container, then this information may appear alone on the tag.

(d) A shipper may not use containers bearing the names of other shippers without having in his possession a signed authorization from such other shippers to use the containers so labeled.

(e) Containers bearing grade labels not conforming to the grade of beans being packaged therein shall be rebranded or stenciled in a neat and legible manner, and any improper labeling shall be completely obliterated. In cases where rebranding is necessary, and the shipper elects to use the tag labeling, the bags may be turned with the plain side out, if, in the judgment of the shipper, this procedure would improve the general appearance of the package.

(4) Each and every lot or shipment of dry beans being transported and moving into trade channels, as described in subrule (1), shall be accompanied by a true copy of the official inspection certificate, or, in lieu thereof, in the case of warehouse inspected lots, the driver of the vehicle or the transporting agent shall have in his possession documentary evidence giving all pertinent information regarding the grading of the lot and the identification thereof. In case of carload shipments the transport copy of inspection certificate shall be fastened to inside of car by the inspector.

(5) On all shipments of graded beans loaded in bulk and/or packed in 100 pound bags or containers on which the grade label does not appear the correct grade and other required information shall appear on a placard supplied by the shipper or applicant and posted in a conspicuous place on the inside of the conveying vehicle by said shipper or applicant. The placard shall be not less than 6 inches x 12 inches in size, the grade shall appear on a separate line in letters or figures of ½ inch minimum size and in form and wording used in the standards and shall agree in every detail with the grade as stated on the transport copy of the inspection certificate which shall also be conspicuously posted near the shipper's "placard"on the inside of the railroad vehicle. In order to achieve uniformity and to be consistent the following form is required for the "Placard":

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NOTICE

SHIPPERS BEAN PLACARD

Inspection Cert. No. A-77902

(Letter Size ½") MICHIGAN CHOICE HANDPICKED NAVY BEANS

(Grade & Class)

Big 4—49785	Bean Transport—Mich. 478-524
(Car Number)	(Truck Name & Number)
Seal Record—M.D.A. 210149-50	Quantity 78,000#
	(Bags or lbs)
Loaded at—Bean-Town	By Country Elevator
(Location—Town or City)	(Elevator or Firm Name)
Date June 20, 1958 SIGNATURE	John Doe

IMPORTANT: The receiver of this shipment shall remove this card and inspection copy and keep on file.

History: 1954 ACS 18, p. 30, Eff. May 15, 1959.

R 285.523.5 Sales to federal agencies.

Rule 5. (1) To facilitate the movement of dry edible beans to agencies of the federal government, under any purchase and sale program of any federal agencies requiring the use of United States grade standards, the use of Michigan official grade standards is hereby waived to the following extent:

(a) Permission is granted any seller of beans to use the United States grade designation only for the grade involved; and

(b) To use the United States grade specifications of tolerance and allowances in determining grade; and

(c) To use only the requirements of any federal agency or federal regulation relating to branding or identifying the beans contained in any size container.

(2) The inspection to determine the grade of any lot of beans, sold to any agency of the federal government, and its certification as to grade by an authorized inspector of the Michigan department of agriculture, shall be in accordance with the interpretation of the said federal grades by the federal agency establishing such grades and requirements for certification thereof; provided, however, that no sale may be made by any person in Michigan to any federal agency without receiving inspection and certification as to grade by an authorized inspector of the Michigan department of agriculture.

(3) The use of federal grade standards on beans within the state of Michigan shall be limited to those grades designated as U.S. choice handpicked, U.S. no. 1 handpicked, U.S. no. 1, U.S. no. 2 handpicked, and U.S. no. 2, as applicable to variety or class.

(4) This ruling shall be effective only during such time as there exists a cooperative agreement between the Michigan department of agriculture and the United States department of agriculture and such other agencies as may, by mutual consent, be a party to such cooperative agreement, governing the

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determination of grade and certification of such grade on dry edible beans, which in effect, maintains to the Michigan bean industry satisfactory compulsory grades and inspection of beans.

(5) No regulation governing the compulsory inspection and grading of beans in Michigan is waived that in any manner prohibits or weakens the mechanics necessary to the maintenance of compulsory bean grading, inspection, and certification of any bean sales in Michigan.

(6) In case of the use of both federal grade designation and Michigan official grade designation on any lot of beans offered for sale, the Michigan official grade designation shall govern as to branding, and the interpretation of the grade by inspectors for certification shall be that used for Michigan official grades.

History: 1954 ACS 18, p. 31, Eff. May 15, 1959.

R 285.523.6 Inspection procedures.

Rule 6. (1) Shippers or others requesting inspection on any lot of beans shall give the inspector ample advance notice of desired inspection service.

(2) All shipments must be completely loaded before official inspection is made and beans must not be loaded to a depth which would hinder or prevent thorough sampling of the load throughout the length and depth thereof. Sampling of beans in the loading bins will not be recognized for "official inspection" use.

(3) Shippers shall furnish help to the inspector to provide for thorough sampling or to gain access to all parts of any specific lot on which inspection is desired.

(4) Inspectors shall thoroughly sample at least 10% of all 100 pound bags in the lot and at least 10 packages from every 10,000 pounds represented if containers hold less than 100 pounds each. No less than 5 packages shall be selected for sampling of any sized lot. In case the small packages become mutilated through sampling, similar packages containing beans of equivalent quality may be substituted for the ones selected for sampling:

(a) At all times extreme care shall be exercised by the inspector when sampling so as not to unnecessarily damage the containers.

(b) Samples shall be taken from all parts of the lots at random and the inspector shall be personally responsible for and vouch that all samples drawn are truly representative to the best of his knowledge and belief.

(c) Sufficiently large samples shall be drawn by the sampler or inspector in order that at least a 1-pound portion may be filed with the inspection laboratory and an equal portion or more must be kept on file by the inspector for at least 30 days.

(d) Bulk sampling methods and procedures shall be uniform for all inspectors and in accordance with instructions which shall be issued in writing to all inspectors from time to time as required. An inspection certificate for an established grade shall not be issued when there is an apparent wide variation of quality, but picking stock regulations shall then govern inspection and disposition of the load.

(e) Inspectors must at all times be in a position to furnish sworn affidavits on any sample to substantiate and verify the origin and identity of such samples, and such affidavits shall also specify that said sample was personally taken by him strictly in accordance with instructions as provided in subdivision (d).

(f) Entire composite samples of all bulk loads inspected shall be kept intact, in approved sample bags, and filed by the inspector for at least 30 days.

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(5) Inspectors shall seal all trucks, cars and other vehicles with official seals of the department of agriculture. Warehouse lots shall be sealed and identified in accordance with specifications under R 285.523.7.

History: 1954 ACS 18, p. 32, Eff. May 15, 1959.

R 285.523.7 Warehouse inspections.

Rule 7. (1) Warehouse inspection service may be granted to dealers who comply with the following requirements:

(a) Warehouse lots shall be positively and adequately identified by warehouseman or shipper, prior to sampling and inspection.

(b) The shipper or warehouseman shall furnish help to the inspector, enabling thorough sampling, identifying, and sealing of all warehouse inspected lots.

(2) Warehouse inspection may be refused by the department of agriculture for noncompliance with required procedures set forth in these rules.

(3) The transport copy of inspection certificate or other positive and adequate evidence of inspection shall be supplied to transporting agent by shipper.

History: 1954 ACS 18, p. 33, Eff. May 15, 1959.

R 285.523.8 Issuance and use of official grading and inspection certificates.

Rule 8. (1) The official bean grading and inspection certificates of the Michigan department of agriculture shall consist of a form and words mutually agreed upon and approved by the department and the Michigan bean shippers association, and shall carry the official state seal.

(2) Throughout the duration of the cooperative agreement between the Michigan department of agriculture and the Michigan bean shippers association, the chief bean inspector of the Michigan bean shippers association shall be the official grading authority for the determination of conformance of any lot of beans to the official state grade.

(3) Each inspection certificate shall have recorded thereon the key identification number of the shipper, as furnished by the Michigan department of agriculture.

(4) An inspection certificate shall not be valid if the beans are not shipped within 15 days of the date thereon.

(5) Each car lot and truck lot of beans inspected shall be sealed with the official seal of the Michigan department of agriculture, and seal numbers shall be recorded on the inspection certificate. Lot numbers or symbols of identification of warehouse lots shall appear on the inspection certificate.

(6) The original inspection certificate or suitable manifests shall in all cases be delivered to the buyer with the invoice or other documents covering the shipment.

History: 1954 ACS 18, p. 33, Eff. May 15, 1959.

R 285.523.9 Reinspection.

Rule 9. Any shipper, owner, or seller of any lot of beans may have the privilege of asking for reinspection at point of origin if he has sufficient grounds to differ with the grading of the lot by the inspector making the original sampling and inspection. The request for a reinspection shall be filed with the chief inspector and he shall supervise or direct the resampling, if he deems it necessary, or he may use the inspector's sample for analysis by him. If the chief inspector's grading differs from the original inspector's grading, then all copies of the certificate covering the first inspection shall be surrendered and a new certificate shall be issued by the chief inspector. In cases where the grading of the first inspector is

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confirmed, the applicant for a reinspection shall bear all additional costs incurred in connection with the reinspection.

History: 1954 ACS 18, p. 33, Eff. May 15, 1959.

R 285.523.10 Appeal inspections.

Rule 10. (1) Any financially interested party may appeal the grading of any lot or shipment of beans if the quality and condition of the lot, upon arrival at destination, does not conform in his judgment to the grade and condition as shown on the official bean inspection certificate. The request for an appeal inspection must be filed with the chief inspector within 3 full business days after arrival of the shipment and before the shipment is unloaded and loses its identity. The chief inspector shall supervise and direct the sampling and the grade shall be determined by the director of agriculture on the basis of the sample submitted to him by the chief inspector. An advisory board shall be established for the purpose of advising the director of agriculture and shall consist of the chief inspector, the state supervisor, and one disinterested licensed bean inspector.

(2) In the event the original grading is reversed, the outstanding certificate shall be recalled, and a certificate giving the correct grading shall be issued by the director of agriculture. The decision of the director of agriculture shall be final and the loser in the appeal shall bear the cost incurred in connection with the appeal.

History: 1954 ACS 18, p. 33, Eff. May 15, 1959.

R 285.523.11 Sales by original producers.

Rule 11. Dry edible beans sold direct to the consumer by the original producer are exempt from these provisions. Evidence of qualifying for this exemption by means of sworn affidavits must be supplied by the producer upon the request of the director of the Michigan department of agriculture.

History: 1954 ACS 18, p. 34, Eff. May 15, 1959.

R 285.523.12 Interpretation and amendment.

Rule 12. (1) The director of the Michigan department of agriculture which is charged with the responsibility of the administration of these rules is authorized to interpret their provisions and set up procedures which he deems necessary in order to carry out the intent and purposes of the rules.

(2) These rules may be altered or amended at any time throughout the year by the commission of agriculture upon agreement between the parties of the latest cooperative contract between the Michigan department of agriculture and the Michigan bean shippers association by means of a special committee, the members of which are appointed by the Michigan bean shippers association to represent their interests in the contract, and the director of agriculture representing the commission of agriculture to represent the department's interest in the contract, to be made effective pursuant to Act No. 88 of the Public Acts of 1943, as amended, being §24.71 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 18, p. 34, Eff. May 15, 1959.

REGULATION NO. 524. SALE OF ANY FLOUR IN USED CONTAINERS

R 285.524 Rescinded.

History: 1944 ACS 14, p. 5; 1954 AC, p. 1547; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

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REGULATION NO. 525. MINIMUM REQUIREMENTS

R 285.525 Rescinded.

History: 1944 ACS 19, p. 5; 1954 AC, p. 1547; rescinded 1954 ACS 35, p. 45, Eff. Aug. 14, 1963; 1954 ACS 36, p. 6, Eff. Nov. 14, 1963, and 1954 ACS 73, p. 6, Eff. Oct. 31, 1972.

REGULATION NO. 526. VARIANCES AND TOLERANCES PERMITTED

R 285.526 Rescinded.

History: 1944 ACS 27, p. 6; 1954 AC, p. 1550; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 527. GRADING OF RED SOUR CHERRIES

R 285.527 Rescinded.

History: 1944 ACS 29, p. 5; 1944 ACS 34, p. 6; 1954 AC, p. 1550; 1954 ACS 23, p. 6, Eff. Aug. 12, 1960; rescinded 1954 ACS 68, p. 11, Eff. June 17, 1971.

REGULATION NO. 528. PEACHES, PEARS, SLICING CUCUMBERS, AND CANTELOPES

R 285.528 Rescinded.

History: 1944 ACS 34, p. 7; 1954 AC, p. 1551; rescinded 1954 ACS 76, p. 8, Eff. Aug. 21, 1973.

REGULATION NO. 529. REFRIGERATION OF EGGS

R 285.529.1—R 285.529.4 Rescinded.

History: 1954 ACS 20, p. 5, Eff. July 1, 1960; rescinded 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 530. CONTROLLED ATMOSPHERE STORAGE FOR APPLES

(By authority conferred on the director of agriculture by Act No. 228 of the Public Acts of 1959, being §286.411 et seq. of the Michigan Compiled Laws)

R 285.530.1 Definitions.

Rule 1. (1) The term "apples" as used in these rules shall mean all varieties of the fruit commonly known as apple.

(2) The term "sealed storage room," "sealed storage space," or "sealed storage building," as used in these rules, shall apply to all sealed storages in which controlled atmosphere is maintained, inferred, advertised, or represented as such.

History: 1954 ACS 23, p. 7, Eff. Aug. 12, 1960.

R 285.530.2 Construction.

Rule 2. (1) Each sealed storage room, space, or building used as a controlled atmosphere storage facility for apples shall be constructed of materials that will permit adequate tightness for establishing and maintaining the necessary levels of carbon dioxide and oxygen gases.

(2) Each sealed storage room, space, or building shall have a Fahrenheit thermometer properly installed and maintained. An approved gas analyzer for the measurement of carbon dioxide and oxygen gases shall be readily accessible to all sealed storage rooms or units.

History: 1954 ACS 23, p. 7, Eff. Aug. 12, 1960.

R 285.530.3 Atmospheric controls and records.

Rule 3. (1) The director of agriculture shall be notified of the date of sealing of a controlled-atmosphere room within 5 days of the sealing operation.

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(2) The oxygen content within the sealed storage shall be 5% or lower within 30 days after the storage is sealed by the operator. A record of the temperature of the rooms to be loaded must be kept and available for inspection.

(3) The fruit shall be stored in a continuously sealed storage, with not more than 5% oxygen for a minimum period of 90 days—except Jonathan variety which may be removed from such storage in not less than 60 days and except as provided in the following subdivisions (a), (b), and (c):

(a) The oxygen level in any sealed controlled storage may exceed 5% for an accumulated time not to exceed 10 days (240 hours) during the storage period. The storage period shall be increased to 100 days for all fruit except Jonathans, which is 70 days when the atmospheric conditions have been interrupted.

(b) All controlled atmosphere storage rooms shall be sealed by a department of agriculture seal, affixed by an authorized representative of the department. All storages to qualify for C.A. must have been sealed by a department representative on or before November 15 of the storage year. No seal shall be broken nor any such room be entered during the 60 or 90 day required period except as provided in subdivision (a) of this subrule. Whenever such interruptions occur, the foods and standards division of the department of agriculture must be notified within 48 hours after the opening of such rooms. Such entered rooms shall thereafter be resealed by an authorized representative of the department of agriculture.

(c) The air temperature of any storage room shall not exceed 37 degrees Fahrenheit for Jonathan, Rome Beauty, Delicious (all), and Stayman varieties nor shall the temperature exceed 43 degrees Fahrenheit for all other varieties during the interruption period.

(4) Daily records shall be maintained on the atmospheric conditions in each sealed storge room from the date of sealing to the date it is opened. This record shall indicate the time of the recording, the temperatures in degrees Fahrenheit, the percent of carbon dioxide, and the percent of oxygen.

History: 1954 ACS 23, p. 7, Eff. Aug. 12, 1960; 1954 ACS 41, p. 5, Eff. Feb. 14, 1965.

REGULATION NO. 531. CELERY FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, and sections 9 and 177 of Act No. 380 of the Public Acts of 1965, being §§289.635, 289.644, 16.109, and 16.277 of the Michigan Compiled Laws)

R 285.531.1 Source.

Rule 1. Only celery produced, packed, and processed within the state may be identified with Michigan seal of quality.

History: 1954 ACS 31, p. 9, Eff. Aug. 14, 1962; 1954 ACS 44, p. 13, Eff. Nov. 14, 1965.

R 285.531.2 Grade.

Rule 2. Each lot of celery identified as Michigan seal of quality shall be graded in accordance with the standards as set forth in these rules and shall be accompanied by a federal-state inspection certificate denoting grade.

History: 1954 ACS 44, p. 13, Eff. Nov. 14, 1965.

R 285.531.3 Seals.

Rule 3. The Michigan seal of quality label, tag, or other device bearing the official emblem shall be obtained only at sources approved by the department of

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agriculture and at a cost as set forth in the established schedule of fees. The use of the Michigan seal of quality is available to any person, firm, or corporation for use in marketing celery who complies with these rules and any instructions issued therewith.

History: 1954 ACS 44, p. 13, Eff. Nov. 14, 1965.

R 285.531.4 Agreement and permit.

Rule 4. No person, firm, or corporation shall use the Michigan seal of quality in connection with the grading and labeling of celery unless there is in force an official written agreement between the applicant and the department of agriculture. The director shall issue a permit to make an imprint on tags, labels, and other devices of the Michigan seal of quality emblem for celery to manufacturers who sign an official agreement with the department of agriculture. Agreements and permits shall expire 1 year after date of issuance. Agreements or permits shall be renewed annually upon request prior to date of expiration and shall be in effect unless the holders are otherwise notified by the director.

History: 1954 ACS 44, p. 13, Eff. Nov. 14, 1965.

R 285.531.5 Penalties.

Rule 5. A violation of any of the applicable laws and rules shall be grounds for revocation of the permit to use the Michigan seal of quality and subject the violator to other penalties as prescribed by law.

History: 1954 ACS 44, p. 13, Eff. Nov. 14, 1965.

R 285.531.6 Standards of quality.

Rule 6. The grade for celery shall be Michigan seal of quality and the standards for such grade to which the seal can be affixed are as follows:

(a) Individual celery stalks shall:

(i) Be fairly well developed, well formed.

(ii) Have good heart formation.

(iii) Be green unless specified as fairly well blanched or mixed blanch.

(iv) Have tops generally green or light green in color.

(v) Be fresh and crisp.

(vi) Be well trimmed, fairly compact, clean.

(vii) Have an average midrib length of the outer whorl of branches not less than 8 inches, excepting packages of 2-4 stalks which are clipped to 12 inches or shorter shall have an average midrib length of not less than 6 inches.

(viii) Not be longer than container length or shorter than 1½ inches of container length.

(ix) Be free from black heart, brown stem, soft rot, pink rot, blue stem, virus disease, doubles.

(x) Be free from damage caused by freezing, growth cracks, horizontal cracks, pithy branches, seedstems, suckers, wilting, blight, other diseases, insect or mechanical or other means.

(b) All celery stalks in each package shall have similar varietal characteristics and meet all of the standards of quality for individual celery stalks.

(c) Each lot in containers of approximately 9¾ x 16 x 20⅛ inches inside dimensions shall average not less than 65 pounds gross weight or 58 pounds net weight when packed; other size containers shall be of equivalent weight.

(d) Celery shall be considered as out-of-grade and cannot be sold under the Michigan seal of quality if upon examination:

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(i) More than 10% of the individual stalks, by count, in any lot fail to meet the grade requirements for individual celery stalks, including therein not more than 2% for soft rot.

(ii) More than 10% of the individual stalks, by count, fail to meet the length required or specified.

(iii) More than 5% of the individual stalks by count, fail to meet the requirements as to average midrib length.

History: 1954 ACS 44, p. 13, Eff. Nov. 14, 1965; 1954 ACS 48, p. 8, Eff. Nov. 14, 1966.

R 285.531.7 Shipping containers.

Rule 7. Shipping containers intended for use in connection with the distribution of celery packed under the Michigan seal of quality shall meet the following requirements:

(a) Shall be new, clean, and of a type recognized as a suitable shipping container for celery.

(b) Shall be lined with full-length container liners of a suitable type of liner paper recognized for use with celery if recognized as a type of container requiring a liner.

(c) Shall bear in plain sight and in plain letters on 1 end or side, the name of the person who first packed or authorized the packing of the celery or the name under which the packer is engaged in business, together with a sufficiently explicit address to permit ready location of the packer, and in figures not less than ¼ of an inch in height, the number of stalks in the container expressed in numerical count, or in dozens and half dozens followed by the term "doz." or "dozen" in like size letters or type.

(d) Unless otherwise specified in connection with the grade, stalks shall be not longer than the distance from 1 side, end, or bottom of the container to the corresponding opposite side, end, or top of the container, and stalks shall not be shorter than 1½ inches from the corresponding opposite side, end, or top of container. Such measurement shall not include the bulge. (Example: Celery stalks packed in 16-inch containers shall be not longer than 16 inches and not shorter than 14½ inches.) In any container when stalk length is specified, it shall be the minimum length expressed in even-numbered whole inches.

(e) The number of stalks of celery in the container may be specified by numerical count or in terms of dozens of half dozens. Permitted variations from the number specified in dozens shall be over only as follows:

(i) 3 dozen stalks or less: 1 stalk over.

(ii) 4 dozen stalks: 2 stalks over.

(iii) More than 4 dozen stalks: 4 stalks over.

When containers are marked with a numerical count, not more than 5% of the containers in any lot may vary more than 1 stalk, providing the average for the lot is not less than the number specified.

History: 1954 ACS 44, p. 14, Eff. Nov. 14, 1965; 1954 ACS 48, p. 8, Eff. Nov. 14, 1966.

R 285.531.8 Consumer packages.

Rule 8. Consumer packages shall be new, clean, and of a type recognized as a consumer package for celery; and bear upon them in plain sight, and in plain letters not less than ⅛ inch in height the name of the person who first packed or authorized the packing of the celery, or the name under which the packer is engaged in business, and a sufficiently explicit address to permit ready location of the packer.

History: 1954 ACS 44, p. 14, Eff. Nov. 14, 1965.

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R 285.531.9 Application of tolerances.

Rule 9. The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations if the averages for the entire lot are within the tolerances specified:

(a) For packages which contain 20 stalks or more and a tolerance of 10% or more is provided, individual packages in any lot may contain not more than 1½ times the tolerance specified.

(b) For packages which contain 20 stalks or more and a tolerance of less than 10% is provided, individual packages may contain not more than double the tolerance specified except that at least 1 defective and 1 off-size stalk may be permitted in any package.

(c) For packages which contain less than 20 stalks individual packages in any lot may contain not more than double the tolerance specified, except that at least 1 defective and 1 off-size stalk may be permitted in any package; provided that, for packages which contain 6 stalks or less, individual packages in any lot are not restricted as to the percentage of defects.

History: 1954 ACS 44, p. 15, Eff. Nov. 14, 1965.

R 285.531.10 Practices and facilities.

Rule 10. Coolers, holding rooms, and any other facility in which celery is held, stored, or in any manner maintained for periods longer than required for normal movement of fresh celery shall:

(a) Be constructed, maintained, and operated in compliance with Michigan laws and rules governing food establishments, food handling, and sanitation.

(b) Not be used for commodities or products not compatible with food products.

(c) Be free from objectionable odors and from molds.

(d) Be maintained in a sanitary condition.

History: 1954 ACS 44, p. 15, Eff. Nov. 14, 1965.

R 285.531.11 Definitions.

Rule 11. As used in these rules:

(a) "Stalk" means an individual plant.

(b) "Similar varietal characteristics" means that the stalks in any package have the same general appearance and character of growth.

(c) "Fairly well developed" means that the branches are of fairly good width and thickness in relation to the length of midribs and type of celery and that there is not excessive open space in the center of the stalk.

(d) "Well formed" means that the branches are fairly straight and not more than slightly curved or twisted.

(e) "Clean" means that the stalk is practically free from dirt or other foreign material. Stalks may have a small amount of dirt on the inside of the branches or in the heart branches which cannot be removed by good commercial methods of washing.

(f) "Well trimmed" means that not more than 1 relatively thin, short or spindly, or coarse and fibrous outer branch remains; that the main root has been cut off so as not to extend more than 1½ inches below the point of attachment of the lowest outer branches; that secondary rootlets are not of such number or length as to materially affect the appearance of the stalk; and that the appearance is not materially affected by the presence of discolored leaves or by excessive removal of leaves or portions of leaves.

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(g) "Fairly compact" means that the branches on the stalk are reasonably close together throughout most of their length.

(h) "Damage," unless otherwise specifically defined in this section, means any defect which materially affects the appearance or the edible or shipping quality of the celery stalk or the general appearance of the stalks in the container. Any 1 of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any 1 defect, shall be considered as damage:

(i) Growth cracks; when more than 2 branches are affected by growth cracks which are over ⅛ inch in length, or when more than 4 branches have growth cracks.

(ii) Horizontal cracks; when more than 3 branches have horizontal cracks which are over ⅛ inch in length or when more than 6 branches have horizontal cracks.

(iii) Pithy branches; when more than 2 are pithy in that portion of the midrib between a point 1⅛ inches above the point of attachment to the base and the first node, or between a point 1⅛ inches below the first node and the point of attachment to the base, or when pith occurs at both ends of the midrib and more than a total of 1⅛ inches is affected. Stalks having 6 outer branches or less shall have not more than ⅓ of the outer branches affected by pith as described above.

(iv) Seedstems; when the length of seedstem exceeds 1⅛ the diameter of the stalk or 6 inches in length.

(v) Dirt; when there is caked dirt on the stalk or when dirt is present between the branches to the extent that the appearance is materially affected.

(vi) Doubles; when not separated and when separated and either of the stalks is not fairly straight.

(vii) Disease:

(A) Brown stem, cracked stem, and crater blotch when materially affecting more than 2 branches or when the aggregate area exceeds ⅜ of a square inch on the branches.

(B) Discoloration when each of more than 2 branches or ¼ of the branches of the stalk, whichever is less, has more than 3 distinct hair-like lines more than 3 inches long occurring on the outer side of the branch or an aggregate area of more than ¼ inch by 1 inch of blotch or solid type discoloration occurring on the inner side.

(viii) Insects; when worms are present, or when insect injury occurs on heart branches, or when insect injury affects the midrib portion of more than 2 branches, or when injury on other portions materially affects the appearance of the stalk.

(ix) Mechanical injury; when the root has been cut off too closely leaving the branches without support, when more than 2 branches are materially scuffed or bruised, when the branches have been broken above the first node to an extent which materially affects the appearance, or when more than 2 branches are broken below the first node except that all branches may be cut below the first node if the stalk is of the length specified.

(i) "Green" means that the midrib portions of the outer branches on the stalk are generally green to light green color.

(j) "Fairly well blanched" means that the midrib portions of the outer branches on the stalk are generally of a creamy white to pale green color.

(k) "Mixed blanch" consists of green and fairly well blanched stalks of celery in the same container.

(l) "Average midrib length" means the average length of all the branches in the outer whorl measured from the point of attachment at the base to the first node.

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(m) "Branch" means the leaf of a stalk and consists of the edible stem-like portion and the tops or leaf blades.

(n) "Length of stalk" means the distance from where the root is cut off to a point which represents the average length of the longest branches.

(o) "Diameter" means the greatest dimension of the stalk measured at a point 2 inches above the point of attachment of the lowest outer branch to the base.

(p) "Length of seedstem" means the distance from the base of the outer branches of the stalk to the top of the actual seedstem, exclusive of any leaves or leafstems attached to the top of the seedstem.

History: 1954 ACS 44, p. 15, Eff. Nov. 14, 1985; 1954 ACS 48, p. 9, Eff. Nov. 14, 1986.

REGULATION NO. 532. SHELL EGGS FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, and sections 9 and 177 of Act No. 380 of the Public Acts of 1965, being §§289.635, 289.644, 16.109, and 16.277 of the Michigan Compiled Laws)

R 285.532.1 Source of eggs.

Rule 1. Only "eggs of current production," produced, packed, and processed within the state, may be identified with "Michigan seal of quality."

History: 1954 ACS 33, p. 6, Eff. Feb. 14, 1963.

R 285.532.2 Grade of eggs.

Rule 2. Grade shall be "Michigan seal of quality" and eggs so identified shall be produced, packed, processed, and handled in accordance with the standards, requirements, and instructions as set forth in these rules.

History: 1954 ACS 33, p. 6, Eff. Feb. 14, 1963.

R 285.532.3 Seals, labels, and tags; sources.

Rule 3. "Michigan seal of quality" labels, tags, or other devices bearing the official emblem shall be obtained only at sources approved by the Michigan department of agriculture.

History: 1954 ACS 33, p. 6, Eff. Feb. 14, 1963.

R 285.532.4 Use of seals.

Rule 4. "Michigan seal of quality" is available to any person for use in marketing eggs who shall comply with these rules and any instructions issued therewith.

History: 1954 ACS 33, p. 6, Eff. Feb. 14, 1963.

R 285.532.5 Application and contract.

Rule 5. (1) No person shall use "Michigan seal of quality" in connection with the marketing of eggs unless there is in force an official written agreement between the applicant and the Michigan department of agriculture. The director shall issue a permit to make and imprint on tags, labels, and other devices the "Michigan seal of quality" emblem for eggs to manufacturers who sign an official agreement with the Michigan department of agriculture.

(2) All agreements and permits shall expire 1 year after the date of issuance. Request for renewal of such agreement or permit must be made annually prior to date of expiration and shall be in effect unless otherwise notified by the director.

History: 1954 ACS 33, p. 6, Eff. Feb. 14, 1963.

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R 285.532.6 Penalties.

Rule 6. Violations of any of the applicable laws and rules shall be subject to penalty by revocation of permit to use the "Michigan seal of quality" and to other penalties as described in the law:

History: 1954 ACS 33, p. 7, Eff. Feb. 14, 1963.

R 285.532.7 Eggs packaged under Michigan seal of quality.

Rule 7. (1) Official identification shall be done only under the supervision of competently trained inspectors or graders approved by the department or by graders or supervisors of grading supplied under cooperative agreement between the department and the United States department of agriculture.

(2) Each person packaging eggs for identification with Michigan seal of quality must have a satisfactory procurement and distribution program including requirements at the farm and retail store level as stated in U.S.D.A. grade certification under quality control programs effective August 1, 1963, as published in regulations governing the grading of shell eggs and U.S. standards, grades, and weight classes for shell eggs.

(3) All eggs identified as Michigan seal of quality shall be not less than U.S.D.A. grade AA quality and shall meet the requirements as set forth in section 10 of Act No. 244 of the Public Acts of 1963, being §289.330 of the Michigan Compiled Laws.

(4) Weight classes for Michigan seal of quality grade eggs shall be as indicated in the following table:

Size or Weight Class	Minimum Net Weight Per Dozen	Minimum Net Weight Per 30 Dozen	Minimum Weight for Individual Eggs at Rate Per Dozen
	Ounces	Pounds	Ounces
Extra Large.....	27	50½	26
Large.....	24	45	23
Medium.....	21	39½	20

(5) Sampling, break-out testing, and maintenance of records of break-out tests shall be done only by qualified personnel as described in subrule (1).

(6) The person at whose place of business the eggs are packaged and officially identified shall be responsible for the packaged product meeting the standards and requirements as set forth in these rules.

History: 1954 ACS 33, p. 7, Eff. Feb. 14, 1963; 1954 ACS 46, p. 44, Eff. May 14, 1966.

R 285.532.8 Package and labels.

Rule 8. All containers used in the distribution and marketing of Michigan seal of quality grade eggs shall meet the following specifications and standards and be labeled in accordance with the following:

(a) All containers, including inner packing materials, used as the primary container for packaging loose eggs shall be new, clean, and of a type recognized as a suitable container for eggs; except that good used 15 and 30 dozen size cases, including required inner packing materials, may be used provided such cases and inner packing materials are clean, undamaged, and all previous grade markings have been completely obliterated.

(b) Each consumer type container shall have printed on the principal panel of the container, or if container can be subdivided on the principal panel of each subdivision, in a clear, legible manner the full, correct, unabbreviated:

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(i) Designation of quality and size in letters ¼ inch or more in height.

(ii) Name and address of producer, packer, or distributor in letters ⅛ inch or more in height.

(c) The number of eggs in a container shall be printed on the top, side, or end panel in a clear, legible manner in letters ¼ inch or more in height.

(d) Each container, other than consumer-type containers, shall have appearing in a conspicuous place in a clear, legible manner on a contrasting background:

(i) The word "eggs" in letters 2 inches or more in height.

(ii) The full, correct, and unabbreviated designation of size, quality, number of eggs contained, and name and address of the producer, packer, or distributor in letters ¼ inch or more in height.

(e) Each container, package, or subdivision thereof which may be opened shall contain on the principal panel, either by printing or sticking tape, in distinctly legible form a date, stated as the month and day or the number of the month and day, preceded by the letters "exp." or a statement such as "not to be sold after," or a number which is the day of year. The date shall not exceed 10 days from the date of Haugh unit measurement test or candling, excluding the day of testing, except that the expiration date shall start with the date of packing for those shipments received during the interim between the weekly Haugh unit test, provided such eggs are packed prior to the next weekly test. Upon expiration of the 10 days, the eggs shall be removed from the labeled packages or the Michigan seal of quality identification and expiration date shall be completely obliterated.

(f) Nothing in these rules shall prohibit the use of the AA grade declaration in conjunction with the Michigan seal of quality grade.

History: 1954 ACS 33, p. 8, Eff. Feb. 14, 1963; 1954 ACS 46, p. 45, Eff. May 14, 1986.

R 285.532.9 Facilities and practices.

Rule 9. Any person who produces or supplies eggs to be packaged under Michigan seal of quality grade and any person grading, packaging, holding, transporting, distributing, or offering for sale in any manner Michigan seal of quality grade eggs shall be subject to the following governing the conservation of egg quality:

(a) Coolers, holding, grading and packing rooms, display units, and any other facilities in which eggs are held, stored, or in any manner maintained shall:

(i) Be constructed, maintained, and operated in compliance with Michigan laws and regulations governing food establishments, food handling, and sanitation.

(ii) Not to be used for commodities, products, or any substance which emit odors which may affect the flavor or taste of eggs.

(iii) Be equipped with a tested thermometer.

(b) Cooler and holding rooms shall:

(i) Have refrigeration facilities capable of reducing within 24 hours and holding the maximum volume of eggs handled to 55 degrees Fahrenheit (internal egg temperature) if eggs are to be held not longer than 1 week.

(ii) Have refrigeration facilities sufficient to hold eggs at 40 degrees Fahrenheit (internal egg temperature) or below if eggs are to be held for periods longer than 1 week.

(iii) Have equipment and facilities for maintaining relative humidity in the room at not less than 70% nor more than 85%.

(iv) Be equipped with adequate, accurate equipment for measuring relative humidity.

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(v) Be free from objectionable odors and from molds.

(vi) Be maintained in a sanitary condition.

History: 1954 ACS 33, p. 9, Eff. Feb. 14, 1963; 1954 ACS 46, p. 45, Eff. May 14, 1966.

R 285.532.10 Sampling and testing procedures.

Rule 10. Sampling and testing of samples of eggs to grade-check eggs officially identified as Michigan seal of quality grade shall be in conformance with the following provisions:

(a) The person responsible for packaging the product officially identified with Michigan seal of quality grade shall be responsible for conformity of the eggs to quality standards and other requirements of this rule until the expiration of date stated on container, if the eggs are maintained under approved conditions during the period which the eggs may be offered for sale. If eggs are not maintained under approved conditions by the person in possession of eggs at time grade and weight, or both, are checked, then the person in possession of the eggs shall be responsible for conformity of eggs to quality standards and other requirements of this rule.

(b) The person responsible for conformity of eggs to quality standards as provided for in these rules shall be responsible for the cost of all eggs broken out for grade-check purposes, if such grade-check is made in accordance with the provisions of these rules.

History: 1954 ACS 33, p. 10, Eff. Feb. 14, 1963; 1954 ACS 46, p. 46, Eff. May 14, 1966.

R 285.532.11 Invoices and invoicing sale of eggs.

Rule 11. All sales, other than retail sales to consumers, of eggs identified with "Michigan seal of quality" grade, shall be accompanied with an invoice which shall bear the following:

(a) Date of sale.

(b) Name and address of buyer and seller.

(c) Expiration dates of period eggs may be offered for sale.

(d) Number of dozens of eggs of each expiration date involved in the transaction by size, class and number indicated in "Michigan seal of quality" seal affixed to packaged product.

History: 1954 ACS 33, p. 10, Eff. Feb. 14, 1963.

R 285.532.12 Definitions.

Rule 12. As used in these rules:

(a) "Eggs" means eggs in the shell of a domestic chicken, but does not include eggs intended for incubation.

(b) "Eggs of current production" means shell eggs which have moved through usual marketing channels since the time they were laid, and have not been held in refrigerated storage in excess of 60 days.

(c) "Expiration date" means the date after which eggs bearing "Michigan seal of quality" grade may not be sold as "Michigan seal of quality" grade eggs.

History: 1954 ACS 33, p. 6, Eff. Feb. 14, 1963.

REGULATION NO. 533. MINIMUM REQUIREMENTS FOR FOOD AND DRINK

R 285.533 Rescinded.

History: 1954 ACS 38, p. 6, Eff. Nov. 14, 1963; rescinded 1954 ACS 85, p. 6, Eff. Sept. 25, 1976.

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REGULATION NO. 534. SEAL OF QUALITY

(By authority conferred on the commission of agriculture by Act No. 70 of the Public Acts of 1961, being §289.631 et seq. of the Michigan Compiled Laws)

R 285.534.1 Seal of quality.

Rule 1. (1) Official emblem: Emblem illustrated in subrule (2)(c), with or without user's number, shall be the official "Michigan seal of quality" emblem and when used in connection with a product shall:

(a) Be deemed to constitute a representation that the product has been officially graded and meets the requirements and quality standards as set forth under the provisions of Act No. 70 of the Public Acts of 1961 and any rules and instructions issued therewith.

(b) Bear the user's number when applied to a product.

(2) Emblem design: Design shall be the property of the department, circular in shape, and consist of:

(a) Center area containing:

(i) State map outline with projecting rays.

(ii) Wording "A fine quality Michigan product" positioned to left of map outline of lower peninsula.

(b) Surrounding border containing wording:

(i) "Michigan seal of quality" reading from left to right in upper half.

(ii) "Department of agriculture" reading from left to right in lower half.

(c) As illustrated:



(3) Emblem color: Color shall be 2-color combination of contrasting colors, preferably blue and maize (chrome or golden yellow) or a single color, preferably blue or red.

(a) When using 2-color combination (blue and maize):

(i) State map outline, center area copy, border area, and ray lines shall be of 1 color (blue).

(ii) Center area proper shall be of contrasting color (maize).

(iii) Border copy and state area shall be reversed out.

(iv) User's number shall be same color as state map outline or of a color contrasting with state area.

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(b) When using a single color:

(i) Border boundaries, border and center area copy, state map outline, ray lines, and user's number shall be in color.

(ii) User's number may or may not be of same color as single color.

(iii) Border, center, and state areas shall be reversed out.

(c) Radiant ink shall be used when feasible.

(4) Emblem reproduction: Emblem shall be reproduced only, in actual or reduced size, by photomechanical method or method recognized as suitable for making a like reproduction from design(s) provided by the department.

(a) Emblem shall be reproduced only by such person who has on file with the department a signed official agreement for reproduction of emblem.

(b) Emblem shall not be incorporated with, become a portion of, or be superimposed upon, a private brand device, trademark, copyright design, signature cut of any person, or private or other public grading mark or device.

(c) No emblem shall be printed for use until printer's final proof has been approved by the director, and no emblem shall be used until finished copies or samples of such emblem have been approved by the director.

(5) Emblem size: Size of emblem for each manner of use to designate a product as being "Michigan seal of quality" shall be approved by the director.

(a) Approved size of emblem may be obtained by submitting to the director:

(i) Name and address of person using emblem.

(ii) Product with which emblem shall be used.

(iii) Manner in which emblem is to be used to identify product as "Michigan seal of quality."

(6) Emblem use: Emblem shall be used only for marketing of agricultural products grown, packed, and processed within this state which have been officially graded and meet "Michigan seal of quality" standards of quality established for use in marketing the product and shall bear the user's number when applied to such product. Reuse of emblem and any crate, carton, package, or other container or any other device bearing the emblem for any product intended for sale shall be prohibited without prior defacing of the emblem.

(7) Emblem user number: Emblem users will be assigned a number upon proper application to the department for use of emblem and approval of use by the director.

(a) User's number shall appear in the center portion of lower half of lower peninsula in:

(i) A legible manner other than writing.

(ii) Arabic numerals.

(iii) A color contrasting with that of the background area of the lower peninsula.

(8) Labels, tags, or other devices: Labels, tags, or other devices bearing the emblem which are attached to, affixed, or placed upon any crate, carton, package, or other container of products or upon the product itself by means of adhesion, shall meet the following specifications:

(a) Paper stock shall be strong enough to adapt to special gumming and porous enough to accept waterproofing and fine registration (when emblem will be subjected to various moistures).

(i) For labels and other similar devices, paper stock shall be at least equal to 60 pound, coated, litho, pressure sensitive stock.

(ii) For tags and other similar devices, paper stock shall be at least equal in quality to coated, rope fiber stock of .015 inch in thickness.

(b) Gumming shall be all-purpose, permanent, pressure sensitive, quick tack with ability to cohere to various surfaces, including rough paper and wood,

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polyethylene, glass, and similar materials, under various conditions for a prolonged period of time and of a strength which will prevent separation of gum from its bonding surface without defacing the bonded material. When used to apply a material directly to surface of a product, whether surface is edible or disposable, gumming shall also be nontoxic.

(c) Waterproofing shall be used to prevent permeation by various moistures if emblem shall be subjected to moistures while attached to a product moving through normal marketing channels. Waterproofing shall be accomplished through over-varnishing with a nontoxic lacquer or equivalent material or equivalent waterproofing process.

(d) Radiant ink is preferred whenever feasible.

(e) Tags and other similar nonadhesive devices bearing the emblem shall be attached to, affixed or placed upon crates, cartons, packages, or other containers in a manner making unwarranted removal without defacement impractical.

(9) Penalties: Any unauthorized printing, use, or disposition of emblem or packaging material bearing the emblem shall be subject to penalty by cancellation of permit to manufacture or use the emblem or packaging material bearing the emblem, and to other penalties as prescribed in the law.

(10) Definitions. As used in this rule:

(a) "Agricultural product(s) grown, packed, and processed within this state" means a product(s) of agricultural origin which, itself or major components, attained final state through a period of growth generally associated with the development of the product, has been packed and/or processed within the state.

(b) "Department" means the Michigan department of agriculture.

(c) "Director" means the state director of agriculture.

(d) "Emblem" means the official "Michigan seal of quality" emblem.

(e) "Emblem user" means any person qualified to use the emblem through official written agreement with the department.

(f) "Growth" means an increase in cell size and/or number of cells of a living organism which results in an increase in volume and weight.

(g) "Person" means individuals, partnerships, trusts, associations, corporations, and any and all other business units, devices, and arrangements, or receiver, trustee or assignee of such business units.

(h) "Product(s)" means agricultural product(s) grown, packed, and processed within this state.

History: 1954 ACS 35, p. 35, Eff. Aug. 14, 1963.

REGULATION NO. 535. NONALCOHOLIC NONCARBONATED BEVERAGES

R 285.535.1—R 285.535.3 Rescinded.

History: 1954 ACS 38, pp. 41-44, Eff. May 15, 1964; rescinded 1954 ACS 63, p. 12, Eff. Aug. 14, 1970.

REGULATION NO. 536. LABELING, ADVERTISING, AND SALE OF EGGS

(By authority conferred on the director of agriculture by Act No. 244 of the Public Acts of 1963, being §289.321 et seq. of the Michigan Compiled Laws)

R 285.536.1 Standards of quality and grades.

Rule 1. All standards of quality and grades for shell eggs in this state shall conform to the latest standards of quality and grades for eggs established by the United States department of agriculture and in effect August 1, 1963, except those tolerances designated in section 10 of Act No. 244 of the Public Acts of 1963, being §289.330 of the Michigan Compiled Laws.

History: 1954 ACS 37, p. 7, Eff. Feb. 14, 1964.

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R 285.536.2 Bulk display markings.

Rule 2. All eggs sold to consumers from bulk lots must have displayed a plainly legible sign or placard conspicuously placed and posted in such a position as to clearly and accurately identify the eggs designated thereby. Such a placard shall be marked with the full, correct, unabbreviated designation of size followed by designation of grade as provided in Act No. 244 of the Public Acts of 1963. The minimum size of this placard shall be 8½ x 11 inches. This placard shall be white with the printing on it in dark blue or black ink in plain block letters not less than ½ inch in size.

History: 1954 ACS 37, p. 8, Eff. Feb. 14, 1964.

R 285.536.3 Cartons and other container markings.

Rule 3. Each container in which eggs are packaged for retail sales shall be marked with the following:

(a) The full, correct, unabbreviated designation of size, number of eggs contained, and designation of grade. This information shall appear on the principal panel of the container in a clear, legible manner on a contrasting background.

(b) The name and address of the producer, wholesaler, retailer, or agent by or for whom the eggs were graded or packed.

History: 1954 ACS 37, p. 8, Eff. Feb. 14, 1964.

R 285.536.4 Reused containers.

Rule 4. Eggs shall not be placed or packed in any used or secondhand container bearing any name, markings, or any designation of brand, quality, grade, or other matter unless all such markings which do not properly and accurately apply to the eggs placed or packed therein have been removed or obliterated.

History: 1954 ACS 37, p. 8, Eff. Feb. 14, 1964.

R 285.536.5 Misuse of marked containers.

Rule 5. Any container of eggs which bears a name, a trademark, or a trade name shall not be sold or used unless such a name, trademark, or trade name is obliterated or effaced, except where the seller or user is entitled to use such name, trademark, or trade name.

History: 1954 ACS 37, p. 8, Eff. Feb. 14, 1964.

R 285.536.6 False writings.

Rule 6. It is unlawful to render to any producer, first receiver, wholesaler, retailer, or consumer an invoice, statement, or bill showing the size, quality, representation of freshness, or any other description of eggs which is false, deceptive, or misleading in any particular.

History: 1954 ACS 37, p. 8, Eff. Feb. 14, 1964.

R 285.536.7 Denaturing or other disposition of eggs.

Rule 7. Approved denaturing or disposing of eggs as required in sections 2, 3, and 11 of Act No. 244 of the Public Acts of 1963, being §§289.322, 289.323, and 289.331 of the Michigan Compiled Laws, shall be accomplished by the addition of 1 of the following materials to such eggs which must be broken out of the shell:

(a) Fish meal
Alfalfa meal
Ground meat scraps
Tankage
Lamp black
Finely ground charcoal

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Any of the above shall be added in quantity of not less than 5% of the total volume or weight of the material to be denatured and shall be mixed with such material.

(b) By the addition of natural coloring matters, such as alkanet, annatto, carotene, cochineal, green chlorophyl, saffron, turmeric, or any approved and certified contrasting food color in sufficient quantity to completely alter their appearance, to eggs after such eggs have been broken out of the shell.

(c) In lieu of denaturing such eggs, voluntary destruction or disposal may be accomplished by dumping into a disposal system.

History: 1954 ACS 37, p. 8, Eff. Feb. 14, 1964.

R 285.536.8 Disposition of eggs; exceptions.

Rule 8. The provisions of R 285.536.7 shall not apply to incubated eggs produced for research or pharmaceutical purposes when such eggs are removed from the premises where incubated upon the written approval of the director of agriculture.

History: 1954 ACS 37, p. 8, Eff. Feb. 14, 1964.

REGULATION NO. 537. CUCUMBERS FOR PICKLING

(By authority conferred on the commission of agriculture by section 2 of Act No. 91 of the Public Acts of 1915, being §285.32 of the Michigan Compiled Laws)

R 285.537.1 Application of rules.

Rule 1. (1) These rules are the basis for determining quality and size of cucumbers for pickling as they are received from or delivered by the grower to a brining plant, packing plant, processing plant or loading station.

(2) These rules do not apply to the sale of cucumbers for pickling when the sale is made by the grower direct to the consumer.

(3) These rules do not prohibit the purchase of, or contracting for pickling cucumbers on a field-run basis, by the hundred-weight. If the value of field-run cucumbers to the grower is established by sizing or grading, grades no. 1 through no. 4 shall apply.

(4) The grower shall receive compensation for all cucumbers for pickling used in any manner by the processor for or in the preparation of human food.

(5) All cucumbers for pickling shall be purchased according to the standards and grades prescribed by these rules.

History: 1954 ACS 44, p. 16, Eff. Dec. 1, 1965.

R 285.537.2 Quality standards.

Rule 2. Cucumbers for pickling shall consist of cucumbers which show characteristic color and which are fairly well formed, fresh and firm, but are not full grown or ripe; which are free from decay and from damage caused by dirt, freezing, sunburn, mosaic, or other disease, insects, mechanical, or other means.

History: 1954 ACS 44, p. 17, Eff. Dec. 1, 1965.

R 285.537.3 Grades.

Rule 3. Cucumbers shall be graded as follows:

(a) No. 1 grade cucumbers shall be not over 1 1/16 inches in diameter.

(b) No. 2 grade cucumbers shall be over 1 1/16 inches but not over 1 1/2 inches in diameter.

(c) No. 3 grade cucumbers shall be over 1 1/2 inches but not over 2 inches in diameter.

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(d) No. 4 grade cucumbers shall not meet the requirements of grades 1, 2, and 3 but have an economic value and be fit for use in the preparation of human food products.

History: 1954 ACS 44, p. 17, Eff. Dec. 1, 1965.

R 285.537.4 Measurement of size.

Rule 4. The standard of measure for determining size shall be any gauge or machine or other device which furnishes an opening between 2 parallel sides through which will pass cucumbers of 1 1/16 inches, regardless of length, for the no. 1 grade; of 1 1/2 inches, regardless of length, for the no. 2 grade; and of 2 inches, regardless of length, for the no. 3 grade.

History: 1954 ACS 44, p. 17, Eff. Dec. 1, 1965.

R 285.537.5 Definitions.

Rule 5. As used in these rules:

(a) "Characteristic color" means that the color is typical of cucumbers for pickling. Cucumbers that show whitish or yellowish-green areas due to shading by the vines or other causes shall not be considered as lacking characteristic color, unless the appearance is seriously injured.

(b) "Damage" means any injury or defect which materially affects the pickling quality.

(c) "Diameter" means the minimum dimension at right angle to the longitudinal axis of the cucumber, exclusive of warts.

(d) "Fairly well formed" means that the cucumber is not materially curved, materially tapered more than normal at 1 or both ends, or otherwise materially misshapen for pickling purposes.

(e) "Fresh" means that the cucumber is bright, not wilted, or old.

(f) "Full grown" means that the cucumber has a dull appearance, is fairly smooth, and warts when present, are not prominent.

(g) "Person" means individual, partnership, trust, association, corporation, and any other business unit, or a receiver, trustee or assignee thereof.

History: 1954 ACS 44, p. 17, Eff. Dec. 1, 1965.

R 285.537.6 Effective date.

Rule 6. These rules shall take effect on December 1, 1965.

History: 1954 ACS 44, p. 17, Eff. Dec. 1, 1965.

REGULATION NO. 538. EGG BREAKING

(By authority of Act No. 344 of the Public Acts of 1917, as amended, Act No. 193 of the Public Acts of 1895, as amended, and Act No. 244 of the Public Acts of 1963, as amended, being §289.201 et seq., §289.81 et seq., and §289.321 et seq. of the Michigan Compiled Laws)

R 285.538.1 Egg breaking.

Rule 1. (1) A separate breaking room must be provided, constructed so that it can be easily cleaned, is well lighted, drained, and ventilated to remove objectionable odors. No eggs for human consumption shall be broken out of the shell except in such separate breaking room.

(2) Equipment and containers:

(a) All equipment coming in contact with broken-out eggs shall be of impervious, chip-resistant, noncorrosive, easily cleanable material. This shall include

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breaking tables, trays, knives, cups, beaters, mixers, churns, buckets, strainers, and any other equipment employed in the breaking room.

(b) New or used containers shall be used provided they are free from leaks, excessive dents, rust spots, and seams which cannot be easily cleaned and sanitized. All cans and equipment listed above must be properly washed and sanitized in accordance with procedures set forth in R 285.533.

(c) Clean garbage containers with covers must be used for shells and other waste materials. Other approved means of disposing of shells and waste materials may be used.

(d) Adequate handwashing facilities shall be located in the breaking room.

(e) Shell egg containers coming into the egg breaking room shall be so handled that they do not pass directly over or come in contact with liquid eggs, liquid egg containers, or drip trays.

(3) All personnel must practice good personal hygiene, wear clean clothes, be free of communicable diseases, use effective hair restraints, and refrain from using tobacco in the breaking room.

(4) The following eggs may not be used or included in the broken out stock:
Incubated
Dirty
Smashed
Open leakers
With portion of shell and membrane missing
With diffused blood in yolk or albumen
Black rots
White rots
Mixed rots
Green whites
Crusted yolks
Stuck yolks
Sour or musty
Moldy
Containing foreign matter other than removable blood and meat spots.
With developed embryos at or beyond blood ring stage.
Any other eggs that are unfit for human consumption.

(5) The following eggs may be used or included in the broken out stock:
Of interior quality equal to or better than U.S. grade C quality
With adhering dirt or shell stains after properly cleaning
With blood and meat spots that can be removed
With cracked or checked shells as long as shell membranes are not broken.

(6) Refrigeration, freezing, and handling:

(a) Eggs to be broken for sale as liquid, frozen, or dried egg products shall be held at temperatures not to exceed 60 degrees Fahrenheit except during candling.

(b) The atmospheric temperature in the candling or breaking rooms, as measured 5 feet above the floor, shall not exceed 75 degrees Fahrenheit.

(c) Liquid eggs must be refrigerated at 40 degrees Fahrenheit or lower immediately after can is filled and maintained at 40 degrees Fahrenheit or lower until used.

(d) Liquid eggs to be frozen must be placed in a freezer at a minimum of minus 10 degrees Fahrenheit immediately after filling cans and must be frozen solid within 60 hours after breaking.

(7) Cleaning and sanitation:

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(a) All breaking equipment coming in contact with the liquid eggs must be cleaned and effectively sanitized at the start of operations each day and at least twice more during each day's operations.

(b) All breaking equipment coming in contact with reject or dirty eggs or eggs with objectionable odors must be removed from service until cleaned and sanitized.

(c) All other equipment in breaking room must be kept clean at all times.

(d) Personnel shall wash their hands often and must wash them after contact with reject or dirty eggs.

(8) All liquid, frozen, and dried egg products for human consumption must be free from salmonella organisms and other pathogenic bacteria. They shall be free from rotten, putrid, blood, decomposed eggs, or any other material that is unfit for human food.

(9) All containers of liquid, frozen, or dried egg products must be identified and labeled as follows:

(a) Identification of the product, such as "frozen whole eggs," "liquid whole eggs," "frozen egg whites," "frozen egg yolks," "liquid egg whites," "liquid egg yolks," "dried whole eggs," "dried egg whites," or "dried egg yolks."

(b) Name and address of the processor or, if the distributor's name and address is used, the USDA plant number or the Michigan registration number of the processor shall be indicated on the label.

(c) The date processed, placed on the can at the time of packing the egg product.

(d) The net contents.

All such information shall appear on the principal label in a plain, conspicuous, legible manner, and be in a color that definitely contrasts with its background; provided, however, if bulk tanks are used for transporting liquid eggs or egg products, the labeling information as required in this subrule shall accompany each shipment.

History: 1954 ACS 43, p. 10, Eff. Aug. 14, 1965.

REGULATION NO. 539. POTATOES FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, section 1 of Act No. 220 of the Public Acts of 1929, as amended, and sections 9 and 177 of Act No. 380 of the Public Acts of 1965, being §§289.635, 289.644, 290.151, 16.109, and 16.277 of the Michigan Compiled Laws)

R 285.539.1 Standards of quality, grading, and inspection.

Rule 1. (1) Only potatoes produced, packed, and processed within the state may be identified with "Michigan seal of quality."

(2) Each lot of potatoes identified as "Michigan seal of quality" shall be graded in accordance with the standards as set forth in this rule and shall be accompanied by a federal-state inspection certificate denoting grade.

(3) The "Michigan seal of quality" label, tag, or other device bearing the official emblem shall be obtained only at sources approved by the Michigan department of agriculture.

(4) The use of the "Michigan seal of quality" in marketing potatoes is available to any person, firm, or corporation who shall comply with this rule and any instructions issued therewith.

(5) No person, firm, or corporation shall use the "Michigan seal of quality" in connection with the grading and labeling of potatoes unless there is in force an

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official written agreement between the applicant and the Michigan department of agriculture. The director shall issue a permit to make and imprint on tags, labels, and other devices the "Michigan seal of quality" emblem for potatoes to manufacturers who sign an official agreement with the Michigan department of agriculture. All agreements and permits shall expire 1 year after date of issuance. Request for renewal of such agreement or permit must be made annually prior to date of expiration and shall be in effect unless otherwise notified by the director.

(6) Violations of any of the applicable laws and regulations shall be subject to penalty by revocation of permit to use the "Michigan seal of quality" and to other penalties as described in the law.

(7) The grade for potatoes shall be "Michigan seal of quality" and the standards for such grade to which the seal can be affixed are as follows:

(a) Individual container of potatoes shall consist of potatoes of 1 variety approved by the director of agriculture and shall be:

(i) Fairly well matured and well shaped.

(ii) Clean unless specified as fairly clean.

(iii) Not frozen.

(iv) Free from freezing injury, blackheart, late blight, southern bacterial wilt, ring rot, soft rot, or wet breakdown.

(v) Free from damage caused by sunburn, greening, second growth, growth cracks, air cracks, hollow heart, internal discoloration, external discoloration, shriveling, sprouting, scab, dry rot, rhizoctonia, dried stems, insects, larvae, worms, other disease, or mechanical or other means.

(b) The size shall be specified in connection with the grade and classified as large or extra large in accordance with 1 of the following size classifications:

(i) For round or intermediate shape varieties such as Irish Cobbler, Katahdin, Sebago, Pontiac, Kennebec, Green Mountain, or other similar varieties:

Large—Shall consist of potatoes not less than 2¼ inches in diameter or more than 3¼ inches in diameter.

Extra large—Shall consist of potatoes not less than 2¼ inches in diameter or more than 3¾ inches in diameter.

(ii) For long varieties such as Russet Burbank, Early Gem, White Rose, or other similar varieties:

Large—Shall consist of potatoes not less than 6 ounces or more than 10 ounces.

Extra large—Shall consist of potatoes not less than 10 ounces or more than 14 ounces.

(iii) Count packs, round, intermediate shaped, or long varieties, when the number of potatoes is designated on the container, the size shall not vary more than 1 ounce under or 1 ounce over the count size specified on the container.

(c) In order to allow for variations, other than size, incident to proper grading and handling, not more than a total of 5%, by weight, of the potatoes in any lot may fail to meet the requirements of this grade relating to external and internal defects, provided that not more than ⅘ of this amount, or 2%, shall be allowed for potatoes which are frozen or affected by southern bacterial wilt, ring rot, late blight, soft rot, or wet breakdown, including therein not more than ⅛ of 1% for potatoes which are frozen or affected by soft rot or wet breakdown.

(d) In order to allow for variations incident to proper sizing, the following tolerances shall be allowed:

(i) Not more than 5% of the potatoes in any lot may fail to meet the specified minimum size or weight. In addition, not more than 10% may fail to meet any specified maximum size or weight.

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(ii) When a number of potatoes per package is specified, the number of potatoes in individual packages shall not vary more than 5% from the number specified.

(8) Individual containers intended for use in connection with the distribution of potatoes packed under the "Michigan seal of quality" grade must meet the following requirements:

(a) Shall be new, clean, and a type recognized as a suitable shipping container for potatoes.

(b) Shall bear upon them in plain sight, readily visible letters and figures not less than ¼ of an inch in height:

(i) Grade.

(ii) Size classification (large or extra large) or numerical count.

(iii) Variety.

(iv) Net contents.

(v) Name of person who first packed or authorized the packing of the potatoes or the name under which such packer is engaged in business.

(vi) Explicit address to permit ready location of such packer.

(c) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided that the averages for the entire lot are within the tolerances specified for the grade:

(i) For packages which contain more than 15 pounds, when a tolerance of 10% or more is provided, individual packages in the lot shall have not more than 1½ times the tolerance specified, and when a tolerance of less than 10% is provided, individual packages in the lot shall have not more than double the tolerance specified, except that for potatoes which are frozen or affected by soft rot or wet breakdown, en route or at destination, not more than 1/10 of the packages may contain not more than 4 times the tolerance specified, and except that at least 1 defective and 1 off-size potato may be permitted in any package.

(ii) For packages which contain 15 pounds or less, individual packages in the lot are not restricted as to percentage of defects and off-size; provided that not more than 1/10 of the packages may have more than 1 potato which is frozen or affected by soft rot or wet breakdown.

(9) Any "person" who produces or supplies potatoes to be packed under the "Michigan seal of quality" and any person grading, packing, holding, transporting, distributing, or offering for sale potatoes under the "Michigan seal of quality" shall be subject to the following provisions governing the maintenance of potato quality:

(a) Coolers, holding rooms, and any other facility in which potatoes are held, stored, or in any manner maintained for periods longer than required for normal movement of potatoes shall:

(i) Be constructed, maintained, and operated in compliance with Michigan laws and regulations governing food establishments, food handling, and sanitation;

(ii) Not be used for commodities or products not compatible with food products; and

(iii) Be free from objectionable odors and from molds.

(10) Definitions:

(a) "Fairly well matured" means that not more than 10%, by weight, of the individual potatoes in the lot have more than ¼ of the skin missing or feathered.

(b) "Well shaped" means that the potato has the normal shape for the variety and is not pointed, dumbbell shaped, or otherwise ill-formed.

(c) "Clean" means that the individual potato has been washed or cleaned equally as well by other approved methods, is fairly bright, individual potato is

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practically free from dirt or staining, and practically no loose dirt or other foreign matter is present in the container.

(d) "Fairly clean" means that the individual potato is reasonably free from dirt or staining and not more than a slight amount of loose dirt or other foreign matter is present in the container.

(e) "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissue such as slimy soft rot, leak, or wet breakdown.

(f) "Damage" means any defect which materially affects the edible or shipping quality, or the internal or external appearance of the individual potato, or any external defect which cannot be removed without a loss of more than 5% of the total weight of the potato including peel covering the defective area. Any 1 of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any 1 defect, shall be considered as damage:

(i) Dirt or other foreign matter when the individual potato is more than slightly dirty or slightly stained, or when more than a moderate amount of loose dirt or other foreign matter is present in the container.

(ii) Sunburn when the discoloration extends into the flesh to such an extent that it cannot be removed without a loss of more than 5% of the total weight of the potato including peel covering the affected area.

(iii) Greening caused by exposure to natural or artificial light when the appearance of the individual potato is materially affected by yellowish or greenish surface discoloration, or when discoloration extends into the flesh of the potato and cannot be removed without a loss of more than 5% of the total weight of the potato including peel covering the defective area.

(iv) Second growth which materially affects the appearance of the individual potato.

(v) Growth cracks which materially affect the appearance of the individual potato.

(vi) Air cracks which are deep, or shallow air cracks which materially affect the appearance of the individual potato.

(vii) Hollowheart which materially affects the internal appearance of the potato cut longitudinally.

(viii) Internal discoloration, any part of which affects the vascular ring or occurs between the ring and the skin of the potato when the discoloration cannot be removed without a loss of more than 5% of the total weight of the potato including peel covering the defective area, or discoloration occurring entirely within the area bounded by the vascular ring when there is more than the equivalent of 3 scattered light brown spots ⅛ inch in diameter in a round or intermediate type potato 2¼ inches in diameter or in a long type potato 8 ounces in weight, or correspondingly lesser or greater numbers of spots on smaller or larger potatoes.

(ix) External discoloration when the appearance of the potato is materially affected.

(x) Shriveling when the potato is more than moderately shriveled, spongy, or flabby.

(xi) Sprouting when more than 5% of the potatoes in the lot have external sprouts over ½ inch in length, or when the removal of an ingrown sprout causes a loss of more than 5% of the total weight of the potato including peel covering the defective area.

(xii) Scab when surface scab shows no pronounced contrast with the background color of the potato and the aggregate area exceeds 5% of the surface, or when surface scab shows a pronounced contrast with the background color and

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the aggregate area exceeds 3% of the surface; when pitted scab affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than 5% of the total weight of the potato including peel covering the defective area; or when russet scab materially affects the appearance of the potato.

(xiii) Rhizoctonia when the appearance of the potato is materially affected, or when the surface is materially caked with black scurf.

(xiv) Dried stems when pliable or over ⅛ inch in diameter and over 2½ inches long, or when stiff and over ⅛ inch in diameter and over 1 inch long.

(xv) Insects, larvae, or worms when present inside the potato, or when any hole caused by them or by grass root or similar injury in a round or intermediate type potato 2½ inches in diameter, or in a long type potato 8 ounces in weight, is more than ¾ inch long or when the aggregate length of all holes in such potatoes is more than 1¼ inches, or correspondingly shorter or longer holes in smaller or larger potatoes, or when other types of injury materially affect the appearance of the potato or cannot be removed without a loss of more than 5% of the total weight of the potato including peel covering the defective area.

(xvi) Mechanical or other means when cuts, shatter bruises, or other bruises, punctures, or other injuries materially affect the appearance of the potato or cannot be removed without a loss of more than 5% of the total weight of the potato including peel covering the defective area.

History: 1954 ACS 41, p. 5, Eff. Feb. 14, 1965; 1954 ACS 52, p. 30, Eff. Nov. 15, 1967.

REGULATION NO. 540. WEIGHTS AND MEASURES

R 285.540.1—R 285.540.21 Rescinded.

History: 1954 ACS 44, pp. 17-24, Eff. Nov. 14, 1965; rescinded 1954 ACS 75, p. 9, Eff. May 22, 1973.

REGULATION NO. 541. SMOKED FISH

(By authority conferred on the director of agriculture by section 5 of Act No. 193 of the Public Acts of 1895, as amended, and section 2 of Act No. 344 of the Public Acts of 1917, being §§289.85 and 289.202 of the Michigan Compiled Laws)

R 285.541.1 Raw product quality.

Rule 1. All fish, fish products, and ingredients shall be clean and wholesome and free from any deterioration, spoilage, adulteration, or foreign odors, and shall be processed, handled, stored, prepared, and transported so as to be safe for human consumption. All fish after evisceration or manual puncturing shall be immediately cooled and maintained so the external and internal temperatures of the fish are at 36 degrees Fahrenheit or below. "Safe" means that there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the product.

History: 1954 ACS 44, p. 24, Eff. Nov. 14, 1965.

R 285.541.2 Process time and temperature.

Rule 2. All smoking shall be accomplished so that the internal temperature of the coldest part of the fish shall remain at 180 degrees Fahrenheit for not less than 30 minutes. An automatic mechanical device, in conjunction with an appropriate heat-sensitive, nonheat conducting probe inserted into the thickest flesh portion of 1 of the largest fish being smoked, shall be used to accurately record process time and internal temperature of each lot. Such records shall not be used for more than 1 day's operation and shall show date, including month, day, and year. Each

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smokehouse load shall be given a lot number that corresponds to a record of thermal process time and temperature.

History: 1954 ACS 44, p. 24, Eff. Nov. 14, 1965.

R 285.541.3 Salt content of finished product.

Rule 3. All smoked fish shall be processed so that the water phase portion of the finished product shall have a salt (sodium chloride) content of not less than 5%; specifically, the quotient of the salt content of the finished product when divided by the sum of the salt and moisture contents multiplied by a factor of 100, which shall yield a number of at least 5. The determination of salt and moisture content is to be made using the loin muscles of the fish excluding bones and skin.

History: 1954 ACS 44, p. 24, Eff. Nov. 14, 1965.

R 285.541.4 Refrigeration.

Rule 4. The following requirements shall apply to refrigeration of all fish:

(a) All fish shall be maintained under refrigeration so that the external and internal temperatures of the fish are at 36 degrees Fahrenheit or below at all times from the time of being eviscerated or manually punctured, including brining time, excluding time necessary for smoking operations.

(b) After processing the fish either shall be immediately cooled to 36 degrees Fahrenheit and shall remain at this temperature or below through all storage, marketing, and sales channels, or shall be immediately cooled and frozen and remain frozen through all storage, marketing, and sales channels. The term "frozen" means an internal temperature of 26 degrees Fahrenheit or less in the fish product. Each holding device for storage of fish shall be equipped with an accurate thermometer.

(c) Every person or firm responsible for handling fish from time of evisceration or manual puncturing to consumer shall have and use an accurate thermometer to check for compliance with temperature requirements in these rules.

History: 1954 ACS 44, p. 25, Eff. Nov. 14, 1965.

R 285.541.5 Sterilization.

Rule 5. Any smoked fish product which will support growth of pathogenic microorganisms that is vacuum packaged in a container which is subsequently sealed to exclude oxygen shall be processed in this container to a time and temperature to sterilize the product from pathogenic microorganisms.

History: 1954 ACS 44, p. 25, Eff. Nov. 14, 1965.

R 285.541.6 Packaging.

Rule 6. All packages, cartons, and wrappers used to ship, wrap, or hold unfrozen smoked fish in any way at any time shall be single service, new materials, and never reused. All packaging materials must permit the diffusion of air into the product. Extreme care shall be taken to avoid contamination of the product during cooling and packaging operations. All packages shall be labeled in accordance with R 285.541.7.

History: 1954 ACS 44, p. 25, Eff. Nov. 14, 1965.

R 285.541.7 Labeling.

Rule 7. The following requirements shall apply to the labeling of all smoked fish:

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(a) Every package, box, wrapper, or other container (including retail display cases of bulk lots) used to transport, hold, or wrap unfrozen smoked fish in any way at any time shall be labeled as indicated below, including packages sold from a labeled bulk display and wrapped at time of sale:

(i) Name of such article of food.

(ii) Name and address of manufacturer, distributor, jobber, or retail merchant with an established business.

(iii) True net contents (as required by Act No. 193 of the Public Acts of 1895, as amended, and Act No. 283 of the Public Acts of 1964).

(iv) Lot code number that identifies period when processed and packaged, as required in R 285.541.2.

(v) Warning statement "Perishable—Keep under refrigeration at 36 degrees Fahrenheit or below."

(vi) Warning statement "Not to be sold or consumed after _____," the blank to be filled with date including month, day, and year, this date to be not more than 14 days after date of smoking.

(b) The labeling requirements for frozen smoked fish are the same as for unfrozen smoked fish with the exception of subdivision (a)(v) and (a)(vi). These statements shall be replaced with the warnings: "Perishable: Keep frozen. Thaw in refrigerator," and "After thawing, keep refrigerated at 36 degrees Fahrenheit or below."

(c) All label statements shall appear in a conspicuous place in a distinctive and plain manner, in plain English words and numerals. All statements shall be permanently affixed to each separate and distinct package or container.

History: 1954 ACS 44, p. 25, Eff. Nov. 14, 1965.

R 285.541.8 Wholesale sale.

Rule 8. When product is sold other than at retail:

(a) All sales shall be accompanied by an invoice or record of sale.

(b) Each invoice shall include the lot number, expiration date, and warning statement, "Perishable—Keep under refrigeration at 36 degrees Fahrenheit or below."

(c) Copies of all invoices or other adequate records shall be maintained to identify consignments or distribution of designated coded lots.

History: 1954 ACS 44, p. 25, Eff. Nov. 14, 1965.

R 285.541.9 Transfer of date code prohibited.

Rule 9. No smoked fish product shall be sold under any expiration date code other than the original expiration date code the processor assigned to the product.

History: 1954 ACS 44, p. 26, Eff. Nov. 14, 1965.

R 285.541.10 Records.

Rule 10. All process time and temperature records and all records of sales as required in these rules shall be made available to inspectors and shall be retained at the place of business for a period of not less than 6 months.

History: 1954 ACS 44, p. 26, Eff. Nov. 14, 1965.

R 285.541.11 Advertising.

Rule 11. Any reference to these rules in labeling, advertising, or other sales promotions is prohibited.

History: 1954 ACS 44, p. 26, Eff. Nov. 14, 1965.

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REGULATION NO. 542. GREENHOUSE LEAF LETTUCE FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, being §§289.635 and 289.644 of the Michigan Compiled Laws)

R 285.542.1 Source.

Rule 1. Only greenhouse leaf lettuce produced, packed, and processed within the state may be identified with Michigan seal of quality.

History: 1954 ACS 47, p. 11, Eff. Aug. 14, 1966.

R 285.542.2 Grade.

Rule 2. Each lot of greenhouse leaf lettuce identified as Michigan seal of quality shall be graded in accordance with the standards as set forth in these rules.

History: 1954 ACS 47, p. 11, Eff. Aug. 14, 1966.

R 285.542.3 Seals.

Rule 3. The Michigan seal of quality label, tag, or other device bearing the official emblem shall be obtained only at sources approved by the Michigan department of agriculture and at a cost as set forth in the established schedule of fees. The Michigan seal of quality is available for use in marketing greenhouse leaf lettuce to any person, firm, or corporation who complies with these rules and any instructions issued therewith.

History: 1954 ACS 47, p. 11, Eff. Aug. 14, 1966.

R 285.542.4 Agreements and permits.

Rule 4. No person, firm, or corporation shall use the Michigan seal of quality in connection with the grading and labeling of greenhouse leaf lettuce unless there is in force an official written agreement between the applicant and the Michigan department of agriculture. The director shall issue a permit to make an imprint on tags, labels, and other devices of the Michigan seal of quality emblem for greenhouse leaf lettuce to manufacturers who sign an official agreement with the Michigan department of agriculture. Agreements and permits shall be renewed annually upon request prior to date of expiration and shall be in effect unless the holders are otherwise notified by the director.

History: 1954 ACS 47, p. 12, Eff. Aug. 14, 1966.

R 285.542.5 Penalties.

Rule 5. A violation of any of the applicable laws and rules shall be grounds for revocation of the permit to use the Michigan seal of quality and subject the violator to other penalties as prescribed by law.

History: 1954 ACS 47, p. 12, Eff. Aug. 14, 1966.

R 285.542.6 Standards of quality.

Rule 6. The grade for greenhouse leaf lettuce shall be Michigan seal of quality and the standards for such grade to which the seal can be affixed are as follows:

(a) Individual greenhouse leaf lettuce plants shall be:

(i) Well grown.

(ii) Fairly well trimmed.

(iii) Free from decay.

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(iv) Free from damage caused by coarse stems, bleached or discolored leaves, spray-burn, dirt, wilting, freezing, disease, insects, or other means.

(b) All leaf lettuce plants in each package shall have similar varietal characteristics and meet all of the standards of quality for individual leaf lettuce plants.

(c) Size, unless otherwise specified, shall meet the following requirements:

(i) The minimum length of individual plants shall not be less than 7 inches.

(ii) The maximum length of individual plants shall not be more than 14 inches.

(d) Uniformity of packing:

(i) There shall not be more variation than 4 inches in length of plants within a container.

(ii) Plants shall be placed in the container with tips at the end of the container, but not touching, with butts toward the middle. Care should be taken to pack plants in layers, alternately, and parallel to the greatest dimension of the container.

(e) Containers of approximately 20½ x 10 x 8 inches inside dimensions shall contain 8¾ pounds minimum net weight of dry leaf lettuce.

History: 1954 ACS 47, p. 12, Eff. Aug. 14, 1968.

R 285.542.7 Tolerances for defects.

Rule 7. Greenhouse leaf lettuce to which the Michigan seal of quality emblem has been affixed shall meet the following requirements:

(a) Not more than 10%, by count, of the plants of leaf letuce in any lot may fail to meet the requirements of the grade, but

(b) Not more than ½ of this amount, or 5%, shall be allowed for serious damage, including in this latter amount not more than 1% for plants affected by decay.

History: 1954 ACS 47, p. 12, Eff. Aug. 14, 1968.

R 285.542.8 Tolerances for size.

Rule 8. In order to allow for variations incident to proper sizing, the following tolerances by count shall be allowed: When size is designated by minimum and maximum length, not more than 5% of the plants in any lot may be shorter than the designated minimum and not more than 10% may be longer than the designated maximum.

History: 1954 ACS 47, p. 12, Eff. Aug. 14, 1968.

R 285.542.9 Packages.

Rule 9. All containers intended for use in connection with the distribution of greenhouse leaf lettuce packed under the Michigan seal of quality must meet the following requirements:

(a) Shipping containers:

(i) Shall be new, clean, and a type recognized as a suitable shipping container for greenhouse leaf lettuce.

(ii) Shall bear upon them in plain sight and in plain letters on 1 outside end or side, the name of the person who first packed or authorized the packing of the leaf lettuce, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer and in figures not less than ¼ of an inch in height.

(b) Consumer packages:

(i) Shall be new and of a type recognized as a consumer package for leaf lettuce.

(ii) Shall bear upon them in plain sight and in plain letters the name of the person who first packed or authorized the packing of the leaf lettuce, or the name under which such packer is engaged in business, together with a sufficiently

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explicit address to permit ready location of such packer and in figures not less than ⅛ inch in height.

(c) Application of tolerances. The contents of individual packages in the lot based on sample inspection are subject to the following limitations, providing the averages for the entire lot are within the tolerance specified:

(i) For packages which contain more than 15 plants and a tolerance of 10% or more is provided, individual packages in any lot shall have not more than 1½ times the tolerance specified.

(ii) For packages which contain more than 15 plants and a tolerance of less than 10% is provided, and for packages which contain 15 plants or less, individual packages in any lot shall have not more than double the tolerance specified, except that at least 1 defective and 1 off-size plant may be permitted in any package.

History: 1954 ACS 47, p. 12, Eff. Aug. 14, 1966.

R 285.542.10 Practices and facilities.

Rule 10. Any person who produces or supplies leaf lettuce to be packed under the Michigan seal of quality and any person grading, packing, holding, transporting, distributing, or offering for sale leaf lettuce under the Michigan seal of quality shall be subject to the following provisions governing the conservation of leaf lettuce quality: Coolers, holding rooms, and any other facility in which leaf lettuce is held, stored, or in any manner maintained for periods longer than required for normal movement of fresh leaf lettuce shall:

(a) Be constructed, maintained, and operated in compliance with Michigan laws and rules governing food establishments, food handling, and sanitation.

(b) Not to be used for commodities and products not compatible with food products.

(c) Be free from objectionable odors and from molds.

History: 1954 ACS 47, p. 13, Eff. Aug. 14, 1966.

R 285.542.11 Definitions.

Rule 11. As used in these rules:

(a) "Similar varietal characteristics" means that the plants in any container are of the same general type.

(b) "Well grown" means that the plant is not stunted or poorly developed.

(c) "Fairly well trimmed" means that the stem is trimmed off to within ¾ inch of the point of attachment of the first whorl of leaves and that leaves which are materially bleached or discolored have been removed.

(d) "Damage" means any specific defect described in these rules or an equally objectionable variation of this defect, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or shipping quality of the leaf lettuce. The following specific defect shall be considered as damage: Stems when more than 3½ inches in length, measured from the end of the butt to the point of attachment of the last whorl of leaves.

(e) "Serious damage" means any defect, or any combination of defects, which seriously detracts from the appearance or the edible or shipping quality of the lettuce.

History: 1954 ACS 47, p. 13, Eff. Aug. 14, 1966.

REGULATION NO. 543. GREENHOUSE TOMATOES FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, and sections 9 and 177 of Act No. 380 of the

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Public Acts of 1965, being §§289.635, 289.644, 16.109, and 16.277 of the Michigan Compiled Laws)

R 285.543.1 Source.

Rule 1. Only greenhouse tomatoes produced, packed, and processed within the state may be identified with Michigan seal of quality.

History: 1954 ACS 48, p. 11, Eff. Nov. 14, 1966.

R 285.543.2 Grade.

Rule 2. Each lot of greenhouse tomatoes identified as Michigan seal of quality shall be graded in accordance with the standards as set forth in these rules.

History: 1954 ACS 48, p. 11, Eff. Nov. 14, 1966.

R 285.543.3 Seals.

Rule 3. The Michigan seal of quality label, tag, or other device bearing the official emblem shall be obtained only at sources approved by the Michigan department of agriculture and at a cost as set forth in the established schedule of fees. The Michigan seal of quality is available for use in marketing greenhouse tomatoes to any person, firm, or corporation who complies with these rules and any instructions issued therewith.

History: 1954 ACS 48, p. 11, Eff. Nov. 14, 1966.

R 285.543.4 Agreements and permits.

Rule 4. (1) No person, firm, or corporation shall use the Michigan seal of quality in connection with the grading and labeling of greenhouse tomatoes, unless there is in force an official written agreement between the applicant and the Michigan department of agriculture. The director shall issue a permit to make an imprint on tags, labels, and other devices of the Michigan seal of quality emblem for greenhouse tomatoes to manufacturers who sign an official agreement with the Michigan department of agriculture.

(2) Agreements and permits shall expire 1 year after date of issuance. Agreements or permits shall be renewed annually upon request prior to date of expiration and shall be in effect unless the holders are otherwise notified by the director.

History: 1954 ACS 48, p. 11, Eff. Nov. 14, 1966.

R 285.543.5 Penalties.

Rule 5. A violation of any of the applicable laws and rules shall be grounds for revocation of the permit to use the Michigan seal of quality and subjects the violator to other penalties as prescribed by law.

History: 1954 ACS 48, p. 11, Eff. Nov. 14, 1966.

R 285.543.6 Standards of quality.

Rule 6. Michigan seal of quality grade shall consist of greenhouse tomatoes:

(a) Of similar varietal characteristics.

(b) Which are mature but not overripe or soft.

(c) Fairly well formed.

(d) Free from decay, freezing injury, and damage caused by bruises, cuts, shriveling, sunscald, puffiness, catfaces, growth cracks, scars, disease, insects, mechanical, or other means.

History: 1954 ACS 48, p. 11, Eff. Nov. 14, 1966.

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R 285.543.7 Tolerances.

Rule 7. Tomatoes to which the Michigan seal of quality emblem has been affixed shall meet the following requirements by weight:

(a) Not more than 10% of the tomatoes in any lot may fail to meet the requirements of the grade, but

(b) Not more than ½ of this amount, or 5%, shall be allowed for serious damage, included in this latter amount not more than 1% for tomatoes which are soft or affected by decay.

History: 1954 ACS 48, p. 11, Eff. Nov. 14, 1966.

R 285.543.8 Packages.

Rule 8. All containers intended for use in connection with the distribution of tomatoes packed under the Michigan seal of quality must meet the following requirements:

(a) Shipping containers:

(i) Shall be new, clean, and a type recognized as a suitable shipping container for tomatoes.

(ii) Shall bear upon them in plain sight and in plain letters on 1 outside end or side, the name of the person who first packed or authorized the packing of the tomatoes, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer, and in figures not less than ¼ of an inch in height the number of tomatoes in the container expressed in numerical count or net weight.

(b) Consumer packages:

(i) Shall be new, clean, and of a type recognized as a consumer package for tomatoes.

(ii) Shall bear upon them in plain sight and in plain letters the name of the person who first packed or authorized the packing of the tomatoes, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer and in figures not less than ⅛ inch in height.

(c) Application of tolerances: The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, providing the average for the entire lot is within the tolerances specified:

(i) For a tolerance of 10% or more, individual packages in any lot shall have not more than 1½ times the tolerances specified, except that when the packages contain 15 specimens or less, any individual package shall have not more than double tolerance specified, except that at least 1 defective and 1 off-size specimen may be permitted in any package.

(ii) For a tolerance of less than 10%, individual packages in any lot shall have not more than double the tolerance specified, except that at least 1 defective and 1 off-size specimen may be permitted in any package.

(d) Size classification: The size of tomatoes may be specified in accordance with 1 of the following classifications:

(i) "Small" under 3⅛ ounces.

(ii) "Medium" from 3⅛ ounces to 9 ounces.

(iii) "Large" over 9 ounces.

(e) Standard pack: Tomatoes shall be fairly uniform in size when packed in containers. "Fairly uniform in size" means that not more than 10%, by weight, of the tomatoes in any container may vary more than the following from the applicable size classification:

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(i) Four ounces for "medium," "small to medium," or "medium to large."

(ii) Six ounces for "large" size.

History: 1954 ACS 48, p. 12, Eff. Nov. 14, 1966.

R 285.543.9 Practices and facilities.

Rule 9. (1) Any person who produces or supplies tomatoes to be packed under the Michigan seal of quality and any person grading, packing, holding, transporting, distributing, or offering for sale tomatoes under the Michigan seal of quality shall be subject to subrule (2) governing the conservation of tomato quality.

(2) Coolers, holding rooms, and any other facility in which tomatoes are held, stored, or in any manner maintained for periods longer than required for normal movement of fresh tomatoes shall:

(a) Be constructed, maintained, and operated in compliance with Michigan laws and rules governing food establishments, food handling, and sanitation.

(b) Not be used for commodities or products not compatible with food products.

(c) Be free from objectionable odors and from molds.

History: 1954 ACS 48, p. 12, Eff. Nov. 14, 1966.

R 285.543.10 Definitions.

Rule 10. As used in these rules:

(a) "Similar varietal characteristics" means that the tomatoes are alike as to character of color (bright red varieties shall not be mixed with varieties having a purplish tinge).

(b) "Mature" means that the contents of 2 or more seed cavities have developed a jellylike consistency and the seeds are well developed. External color shows at least a definite break from green to pink or red color.

(c) "Soft" means that the tomato yields readily to slight pressure.

(d) "Fairly well formed" means that the tomato is not decidedly kidney-shaped, lopsided, elongated, angular or otherwise decidedly deformed.

(e) "Damage" means any specific defect described in this rule; or an equally objectionable variation of any 1 of these defects, any other defect, or any combination of defects which materially detracts from the appearance of the edible or shipping quality of the tomato. The following specific defects shall be considered as damage:

(i) Puffiness when the open space in 1 or more locules materially detracts from the appearance of the tomato when cut through the center at right angles to a line running from the stem to the blossom end.

(ii) Catfaces when scars are rough or deep, when channels are very deep or wide, when channels extend into a locule, or when the appearance of the tomato is affected to a greater extent than that of a small size tomato with a fairly smooth catface on an area equivalent to that of a circle ⅜ inch in diameter; a medium size tomato with ½ inch area; or a large size tomato with ¾ inch area.

(iii) Growth cracks (radiating from or concentric to the stem scar) when not well healed, when more than ⅛ inch in depth, or when affecting the appearance or shipping quality of the tomato to a greater extent than that of a tomato 5 ounces in weight having any individual radial crack ½ inch in length, or having more than 1 inch aggregate length of all radial cracks measured from the edge of the stem scar.

(iv) Scars (other than catfaces) when the appearance of the tomato is affected to a greater extent than that of a tomato 5 ounces in weight having a scar with no depth which has an area equivalent to that of a circle ¾ inch in diameter.

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(v) Cuts, not well healed, not shallow, or which affect the appearance or shipping quality of the tomato to a greater extent than that of a tomato 5 ounces in weight having a cut ½ inch in length.

(f) "Serious damage" means any specific defect described in this rule; or an equally objectionable variation of any 1 of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or shipping quality of the tomato. The following specific defects shall be considered as serious damage:

(i) Puffiness when the open space in 1 or more locules seriously detracts from the appearance of the tomato when cut through the center at right angles to a line running from the stem to the blossom end.

(ii) Catfaces when channels extend into the locule, when the wall has been weakened to the extent that slight pressure will cause the tomato to leak, or when the appearance of the tomato is affected to a greater extent than that of a tomato 5 ounces in weight having a fairly smooth catface with an area equivalent to that of a circle 1 inch in diameter.

(iii) Growth cracks (radiating from or concentric to the stem scar) when not well healed, when more than ⅛ inch in depth, or when affecting the appearance or shipping quality of the tomato to a greater extent than that of a tomato 5 ounces in weight having individual radial cracks 1 inch in length, or having more than a 2½ inch aggregate length of all radial cracks, measured from the edge of the stem scar.

(iv) Scars (other than catfaces) when the appearance of the tomato is affected to a greater extent than that of a tomato 5 ounces in weight having a scar with no depth which has an area equivalent to that of a circle 1 inch in diameter.

(v) Cuts, not well healed, not shallow, or which affect the appearance or shipping quality of the tomato to a greater extent than that of a tomato 5 ounces in weight having a cut ½ inch in length.

History: 1954 ACS 48, p. 13, Eff. Nov. 14, 1966.

REGULATION NO. 544. SWEET CHERRIES FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, and sections 9 and 177 of Act No. 380 of the Public Acts of 1965, being §§289.635, 289.644, 16.109, and 16.277 of the Michigan Compiled Laws)

R 285.544.1 Definitions.

Rule 1. (1) "Similar varietal characteristics" means that the cherries in any container are similar in shape and color.

(2) "Mature" means that the cherries have reached the stage of growth which will insure proper completion of the ripening process.

(3) "Fairly well colored" means that the cherries show characteristic color for mature cherries of the variety.

(4) "Well formed" means that the cherries have the normal shape characteristic of the variety, except that mature well developed doubles shall be considered well formed when each of the halves is approximately evenly formed.

(5) "Clean" means that the cherries are practically free from dirt, dust, spray residue, or other foreign material.

(6) "Damage" means any defect which materially affects the appearance, the edible or shipping quality of the individual cherry, or the general appearance of the cherries in the container. Any 1 of the following defects, or any combination of

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defects the seriousness of which exceeds the maximum allowed for any 1 defect, shall be considered as damage:

(a) Cracks within the stem cavity when deep or not well healed, or when the appearance is affected to a greater extent than that of a cherry which has a superficial well healed crack 1/16 inch in width extending 1/2 the greatest circumference of the stem cavity.

(b) Cracks outside the stem cavity when deep or not well healed, or when the crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing, or handling, or when materially affecting the appearance.

(c) Hail injury when deep or not well healed, or when the aggregate area exceeds the area of a circle 3/16 inch in diameter.

(d) Insects when scale or more than 1 scale mark is present, or when the appearance is materially affected by any insect.

(e) Limb rubs when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted.

(f) Pulled stems when the skin or flesh is torn, or when the cherry is leaking.

(g) Russeting when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted.

(h) Scars when excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle 3/16 inch in diameter, or when smooth or fairly smooth, light colored, and superficial and the aggregate area exceeds the area of a circle 1/4 inch in diameter.

(i) Skin breaks when not well healed or when the appearance of the cherry is materially affected.

(j) Sutures when excessively deep or when affecting the shape of the cherry to the extent that it is not well formed.

(7) "Diameter" means the greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry.

(8) "Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the cherry. Seriously damaged cherries include the following conditions:

(a) Decay.

(b) Wormy cherries or cherries with worm holes.

(c) Skin breaks which are not well healed.

(d) Cracks which are not well healed.

(e) Pulled stems with skin or flesh of cherry torn or which causes the cherry to leak.

History: 1954 ACS 51, p. 14, Eff. Aug. 15, 1967.

R 285.544.2 Source and grade.

Rule 2. (1) Only sweet cherries produced, packed, and processed within the state of Michigan may be identified with the Michigan seal of quality.

(2) Each lot of sweet cherries identified with the Michigan seal of quality shall be graded in accordance with standards set forth in these rules.

History: 1954 ACS 51, p. 15, Eff. Aug. 15, 1967.

R 285.544.3 Seal of quality.

Rule 3. The Michigan seal of quality label, tag, or other device bearing the official emblem shall be obtained only at sources approved by the Michigan department of agriculture and at a cost as set forth in the established schedule of fees. The Michigan seal of quality is available for use in marketing sweet cherries

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to any person, firm, or corporation who complies with these rules and any instructions issued therewith.

History: 1954 ACS 51, p. 15, Eff. Aug. 15, 1967.

R 285.544.4 Agreements and permits.

Rule 4. No person, firm, or corporation shall use the Michigan seal of quality in connection with the grading and labeling of sweet cherries unless there is in force an official written agreement between the applicant and the Michigan department of agriculture. The director shall issue a permit to make an imprint on tags, labels, and other devices of the Michigan seal of quality emblem for sweet cherries to manufacturers who sign an official agreement with the Michigan department of agriculture. Agreements and permits shall be renewed annually upon request prior to date of expiration and shall be in effect unless the holders are otherwise notified by the director.

History: 1954 ACS 51, p. 15, Eff. Aug. 15, 1967.

R 285.544.5 Penalties.

Rule 5. A violation of any of the applicable laws and rules is a ground for revocation of the permit to use the Michigan seal of quality and subjects the violator to other penalties as prescribed by law.

History: 1954 ACS 51, p. 16, Eff. Aug. 15, 1967.

R 285.544.6 Standards of quality.

Rule 6. The grade for sweet cherries shall be Michigan seal of quality and the standards for such grade to which the seal may be affixed are as follows:

(a) Individual sweet cherries shall consist of cherries of similar varietal characteristics which are mature, but not soft, overripe or shriveled, and which are fairly well colored, well formed, clean, and free from decay, worms or worm holes, undeveloped doubles and sunscald, and free from damage caused by bruises, cracks, disease, hail, other insects, limb rubs, pulled stems, russeting, scars, skin breaks, sunburn, sutures, or mechanical or other means.

(b) The minimum diameter of each cherry shall be not less than ¾ inch. In addition, the cherries in any container so marked with the minimum diameter shall not vary in diameter between the fruits in the container more than ¼ inch, except that 10%, by count, of the cherries in any 1 container may be below the size marked and 5% may be allowed for oversize.

(c) When containers of loose cherries are marked with a row size designation, at least 50% of the cherries in the container shall be of a size no smaller than the row size marked; however, none of the cherries in such containers shall be more than 2 sizes smaller than that marked on the container, except that 15%, by count, of the cherries in any container may be below this minimum size requirement. The row size number shall be deemed to be that number of cherries of uniform size whose aggregate width will equal 11½ inches.

(d) In order to allow for variation incident to proper grading and handling, not more than 10%, by count, of the cherries in any lot may fail to meet the requirements of the grade, but not more than ⅓ of this amount, or 5%, shall be allowed for defects causing serious damage, including therein not more than 1% for cherries affected by decay. In addition, when cherries are packed with stems attached, not more than 20%, by count, in any lot may be allowed for cherries with stems detached. When cherries are packed with stems detached, not more than 5%, by count, in any lot, may be allowed for cherries with stems attached.

History: 1954 ACS 51, p. 16, Eff. Aug. 15, 1967.

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R 285.544.7 Containers.

Rule 7. Containers intended for use in connection with the distribution of sweet cherries under the Michigan seal of quality shall:

(a) Be new, clean, and of a type recognized as a suitable container for sweet cherries.

(b) Bear in plain sight and in plain letters on 1 end or side the name of the person who first packed or authorized the packing of the sweet cherries, or the name under which the packer is engaged in business, together with a sufficiently explicit address to permit ready location of the packer, and in figures not less than ¼ inch in height, the minimum diameter in inches or fractions thereof, or the row size designation followed by the term "row," of the sweet cherries in the container in like size letters or type, and the net contents either in quarts, pints, or net weight in pounds.

History: 1954 ACS 51, p. 16, Eff. Aug. 15, 1967.

R 285.544.8 Tolerances.

Rule 8. The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations if the averages for the entire lot are within the tolerances specified for the grade:

(a) For a tolerance of 10% or more, individual packages in any lot may contain not more than 1½ times the tolerance specified, except that when the package contains 1 pound or less, individual packages may contain not more than double the tolerance specified.

(b) For a tolerance of less than 10%, individual packages in any lot may contain not more than double the tolerances specified, except that at least 1 defective and 1 off-size specimen may be permitted in any package.

History: 1954 ACS 51, p. 16, Eff. Aug. 15, 1967.

REGULATION NO. 545. MUSHROOMS FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, and sections 9 and 177 of Act No. 380 of the Public Acts of 1965, being §§289.635, 289.644, 16.109, and 16.277 of the Michigan Compiled Laws)

R 285.545.1 Definitions.

Rule 1. As used in these rules:

(a) "Mature" means that a mushroom is firm and well developed; the veil area may be stretched but not broken.

(b) "Well shaped" means that a mushroom cap is not flattened, scalloped, indented, or otherwise deformed.

(c) "Well trimmed" means that a stem is smoothly cut, free from rough fleshy butts, the flared portion of the butt is removed and the remaining portion of the stem does not exceed the depth of the cap.

(d) "Open veils" means that the cap has expanded to the extent that the protective covering or veil joining the margin of the cap to the stem has broken and exposed the gills or underside of the cap.

(e) "Spots" means pitted or discolored areas.

(f) "Damage" means any specific defect described in these rules or an equally objectionable variation of any 1 of these defects, any other defect, or any combination of defects which materially detracts from the appearance or the edible or marketing quality of the individual mushroom or of the mushrooms in the lot. The following specific defects are considered as damage:

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(i) Discoloration when the color of the cap or stem materially affects the appearance or marketing quality of the mushrooms.

(ii) Dirt when any amount is embedded in the cap or stem.

(g) "Length of stem" means the greatest distance as measured from the point of attachment of the veil on the stem to the butt.

History: 1954 ACS 52, p. 30, Eff. Nov. 15, 1967.

R 285.545.2 Source.

Rule 2. Only mushrooms produced, packed, and processed within the state may be identified with the Michigan seal of quality.

History: 1954 ACS 52, p. 31, Eff. Nov. 15, 1967.

R 285.545.3 Grade.

Rule 3. Each lot of mushrooms identified as Michigan seal of quality shall be graded in accordance with the standards in these rules.

History: 1954 ACS 52, p. 31, Eff. Nov. 15, 1967.

R 285.545.4 Seals.

Rule 4. The Michigan seal of quality label, tag, or other device bearing the official emblem shall be obtained only at sources approved by the Michigan department of agriculture and at a cost as set forth in the established schedule of fees. The Michigan seal of quality is available for use in marketing mushrooms to any person, firm, or corporation who complies with these rules and any instructions issued therewith.

History: 1954 ACS 52, p. 31, Eff. Nov. 15, 1967.

R 285.545.5 Agreements and permits.

Rule 5. No person, firm, or corporation shall use the Michigan seal of quality in connection with the grading and labeling of mushrooms unless there is in force an official written agreement between the applicant and the Michigan department of agriculture. The director shall issue a permit to make an imprint on tags, labels, and other devices of the Michigan seal of quality emblem for mushrooms to manufacturers who sign an official agreement with the Michigan department of agriculture. Agreements and permits shall expire 1 year after date of issuance. Agreements and permits shall be renewed annually upon request prior to date of expiration and shall be in effect unless the holders are otherwise notified by the director.

History: 1954 ACS 52, p. 31, Eff. Nov. 15, 1967.

R 285.545.6 Penalties.

Rule 6. A violation of any of the applicable laws and rules is a ground for revocation of the permit to use the Michigan seal of quality and subjects the violator to other penalties prescribed by law.

History: 1954 ACS 52, p. 31, Eff. Nov. 15, 1967.

FRESH MUSHROOMS

R 285.545.7 Standards of quality.

Rule 7. Michigan seal of quality grade shall consist of fresh mushrooms which are:

(a) Mature.

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(b) Well shaped.
(c) Well trimmed.
(d) Free from open veils, disease, spots, insect injury, and decay, and from damage by any cause.

History: 1954 ACS 52, p. 31, Eff. Nov. 15, 1967.

R 285.545.8 Size.

Rule 8. Mushrooms packed in pint capacity containers shall be packed 5 to 14 count per container. Mushrooms packed in quart capacity containers shall be packed 8 to 19 count per container.

History: 1954 ACS 52, p. 31, Eff. Nov. 15, 1967.

R 285.545.9 Tolerances by weight.

Rule 9. Mushrooms identified by the Michigan seal of quality shall meet the following requirements:

(a) At shipping point: Not more than 5% of the mushrooms by weight in any lot may fail to meet the requirements of the grade, but not more than ⅛ of this amount or 1% shall be allowed for mushrooms affected by disease, spots, or decay.

(b) En route or at destination: 10% for mushrooms in any lot which have open veils, 5% for mushrooms in any lot which fail to meet the remaining requirements of this grade but not more than ⅛ of this latter amount or 1% shall be allowed for mushrooms affected by disease, spots, or decay.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

R 285.545.10 Tolerances for packages in a lot.

Rule 10. The contents of individual packages in a lot, based on sample inspection, are subject to the following limitations:

(a) For a tolerance of 10% or more, individual packages in a lot shall have not more than 1½ times the tolerance specified, if the average for the entire lot is within the tolerance specified for the grade.

(b) For a tolerance of less than 10%, individual packages in a lot shall have not more than double the tolerance specified, except that at least 1 defective and 1 off-size specimen may be permitted in any package, and the average for the entire lot shall be within the tolerance specified for the grade.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

CANNED MUSHROOMS

R 285.545.11 Canned mushrooms; product description.

Rule 11. "Canned mushrooms" means the product prepared from the sound, succulent, fresh mushroom by proper trimming, washing, and sorting. This product is packed with the addition of water in hermetically sealed containers and sufficiently processed by heat to assure preservation. Salt may be added in a quantity sufficient to season the product.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

R 285.545.12 Canned mushrooms; standards of quality.

Rule 12. Michigan seal of quality grade of canned mushrooms shall consist of mushrooms known to the industry as white or cream type.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

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R 285.545.13 Canned mushrooms; stems and pieces.

Rule 13. Stems and pieces are predominantly cut or broken portions of the caps and stems and may contain units of any of the other styles of canned mushrooms.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

R 285.545.14 Canned mushrooms; color.

Rule 14. The color of the surface of the individual caps of canned mushrooms may be dark cream, which color may possess a gray or brown cast that does not seriously affect the overall color appearance of the product. With respect to the style of stems and pieces, the color of the gills of the sliced units shall not be darker than tarnish gray.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

R 285.545.15 Canned mushrooms; defects.

Rule 15. (1) The product shall be fairly free from defects which means the product does not exceed 10% by weight damage, including 2% by weight of serious damage. Defect refers to the degree of freedom of canned mushrooms from units which are damaged or seriously damaged.

(2) "Damaged" means damaged by discoloration, pathological injury, mechanical injury, or damaged by other means to such extent that the appearance or eating quality of the unit is materially affected.

(3) "Seriously damaged" means damaged to such extent that the appearance or eating quality of the unit is seriously affected.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

R 285.545.16 Canned mushrooms; character.

Rule 16. Character refers to the tenderness and texture of canned mushrooms. The product shall have fairly good character which means the units are reasonably tender, may be slightly soft, and are reasonably free from fibrous or rubbery units.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

R 285.545.17 Canned mushrooms; drained weight.

Rule 17. The drained weight of canned mushrooms shall meet good commercial practices.

History: 1954 ACS 52, p. 32, Eff. Nov. 15, 1967.

REGULATION NO. 546. APPLES FOR SALE UNDER SEAL OF QUALITY

(By authority conferred on the commission of agriculture by sections 5 and 14 of Act No. 70 of the Public Acts of 1961, and sections 9 and 177 of Act No. 380 of the Public Acts of 1965, being §§289.635, 289.644, 16.109, and 16.277 of the Michigan Compiled Laws)

R 285.546.1 Definitions.

Rule 1. (1) "Mature" means that the apples have reached the stage of development which will insure the proper completion of the ripening process. Before a mature apple becomes overripe it will show varying degrees of firmness,

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depending upon the stage of the ripening process. The following terms are used for describing different stages of firmness of apples:

(a) "Hard" means apples with a tenacious flesh and starchy flavor.

(b) "Firm" means apples with a tenacious flesh but which are becoming crisp with a slightly starchy flavor, except the Delicious variety.

(c) "Firm ripe" means apples with crisp flesh except that the flesh of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy.

(d) "Ripe" means apples with mealy flesh and soon to become soft for the variety.

(2) "Overripe" means apples which are dead ripe, with flesh very mealy or soft, and past commercial utility.

(3) "Carefully handpicked" means that the apples do not show evidence of rough handling or of having been on the ground.

(4) "Clean" means that the apples are free from excessive dirt, dust, spray residue and other foreign material.

(5) "Fairly well formed" means that the apple may be slightly abnormal in shape but not to an extent which detracts materially from its appearance.

(6) "Injury" means any specific defect defined in this subrule; or an equally objectionable variation of any 1 of these defects, any other defect, or any combination of defects, which more than slightly detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as injury:

(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether or not an apple is injured by russeting. Smooth net-like russeting outside of the stem cavity or calyx basin shall be considered as injury when an aggregate area of more than 10% of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted.

(b) Sunburn or sprayburn, when the discolored area does not blend into the normal color of the fruit.

(c) Dark brown or black limb rubs which affect a total area of more than ¼ inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of injury by russeting.

(d) Hail marks, drought spots, other similar depressions or scars; when the skin is broken, whether healed or unhealed; when there is appreciable discoloration of the surface; when any surface indentation exceeds 1/16 inch in depth; when any surface indentation exceeds ⅛ inch in diameter; or when the aggregate affected area of such spots exceeds ½ inch in diameter.

(e) Disease:

(i) Cedar rust infection which affects a total area of more than 3/16 inch in diameter.

(ii) Sooty blotch or fly speck which is thinly scattered over more than 5% of the surface, or dark, heavily concentrated spots which affect an area of more than ¼ inch in diameter.

(iii) Red skin spots which are thinly scattered over more than 1/16 of the surface, or dark, heavily concentrated spots which affect an area of more than ¼ inch in diameter.

(f) Insects:

(i) Any healed sting or healed stings which affect a total area of more than ⅛ inch in diameter including any encircling discolored rings.

(ii) Worm holes.

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(7) "Damage" means any specific defect defined in this subrule or an equally objectionable variation of any 1 of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as damage:

(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall be considered in determining whether or not an apple is damaged by russeting, except that excessively rough or bark-like russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside of the stem cavity or calyx basin shall be considered as damage:

(i) Russeting which is excessively rough on Roxbury Russet and other similar varieties.

(ii) Smooth net-like russeting, when an aggregate area of more than 15% of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted.

(iii) Smooth solid russeting, when an aggregate area of more than 5% of the surface is covered, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearance is affected to a greater extent than the above amount permitted.

(iv) Slightly rough russeting which covers an aggregate area of more than ½ inch in diameter.

(v) Rough russeting which covers an aggregate area of more than ¼ inch in diameter.

(b) Sunburn or sprayburn which has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting.

(c) Limb rubs which affect a total area of more than ½ inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of damage by russeting.

(d) Hail marks, drought spots and other similar depressions or scars:

(i) When an unhealed mark is present.

(ii) When any surface indentation exceeds ⅛ inch in depth.

(iii) When the skin has not been broken and the aggregate affected area exceeds ½ inch in diameter.

(iv) When the skin has been broken and well healed, and the aggregate affected area exceeds ¼ inch in diameter.

(e) Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of ¼ inch.

(f) Invisible water core existing around the core and extending to water core in the vascular bundles; or surrounding the vascular bundles when the affected areas surrounding 3 or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles.

(g) Diseases:

(i) Scab spots which affect a total area of more than ¼ inch in diameter.

(ii) Cedar rust infection which affects a total area of more than ¼ inch in diameter.

(iii) Sooty blotch or fly speck which is thinly scattered over more than ⅒ of the

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surface, or dark, heavily concentrated spots which affect an area of more than ½ inch in diameter.

(iv) Red skin spots which are thinly scattered over more than 1/10 of the surface, or dark, heavily concentrated spots which affect an area of more than ½ inch in diameter.

(h) Insects:

(i) Any healed sting or healed stings which affect a total area of more than 3/16 inch in diameter including any encircling discolored rings.

(ii) Worm holes.

(8) "Serious damage" means any specific defect defined in this subrule, or an equally objectionable variation of any 1 of these defects, any other defect, or any combination of defects which seriously detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as serious damage:

(a) The following types and amounts of russeting shall be considered as serious damage: Smooth solid russeting, when more than ½ of the surface in the aggregate is covered, including any russeting in the stem cavity or calyx basin, or slightly rough, or excessively rough or bark-like russeting, which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted. However, any amount of russeting shall be permitted on Roxbury Russet and other similar varieties.

(b) Sunburn or sprayburn which seriously detracts from the appearance of the fruit.

(c) Limb rubs which affect more than 1/10 of the surface in the aggregate.

(d) Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit, or if such defects affect more than 1/10 of the surface in the aggregate. However, no hail marks which are unhealed shall be permitted and not more than an aggregate area of ½ inch shall be allowed for well healed hail marks where the skin has been broken.

(e) Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of ½ inch.

(f) Visible water core which affects an area of more than ½ inch in diameter.

(g) Diseases:

(i) Scab spots which affect a total area of more than ¾ inch in diameter.

(ii) Cedar rust infection which affects a total area of more than ¾ inch in diameter.

(iii) Sooty blotch or fly speck which affects more than ⅓ of the surface.

(iv) Red skin spots which affect more than ⅓ of the surface.

(v) Bitter pit or Jonathan spot which is thinly scattered over more than 1/10 of the surface and does not materially deform or disfigure the fruit.

(h) Insects:

(i) Healed stings which affect a total area of more than ¼ inch in diameter including any encircling discolored rings.

(ii) Worm holes.

(9) "Seriously deformed" means that the apple is so badly misshapen that its appearance is seriously affected.

(10) "Diameter," when measuring for minimum size, means the greatest dimension of the apple measured at right angles to a line from stem to blossom end. "Diameter," when measuring for maximum size, means the smallest dimension of the apple determined by passing the apple through a round opening in any position.

(11) "Fairly tight" means that apples are of the proper size for molds and cell compartments in which they are packed, and that molds or cells are filled in such

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a way that no more than slight movement of apples within molds or cells is possible. The top layer of apples, or any pad or space filler over the top layer of apples shall be not more than ¾ inch below the top edge of the carton.

(12) "Fairly well filled" means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 37 pounds for Cortland, Gravenstein, Jonathan, McIntosh and Golden Delicious varieties and not less than 40 pounds for all other varieties.

(13) "Area" means the area of a circle of the specified diameter.

(14) "Damage by water core" means externally invisible water core existing around the core and extending to water core in the vascular bundles; or surrounding the vascular bundles when the affected areas surrounding 3 or more vascular bundles meet or coalesce; or existing in more than slight degree outside the circular area formed by the vascular bundles; or any externally visible water core.

(15) "U.S. condition standards for export" means that:

(a) Not more than 5% of the apples in any lot shall be further advanced in maturity than firm ripe.

(b) Not more than 5% of the apples in any lot shall be damaged by storage scab.

(c) Not more than a total of 5% of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damaged by water core, bitter pit, Jonathan spot, or other condition factors, except that:

(i) Not more than a total of 2% shall be allowed for apples affected by decay and soft scald;

(ii) Not more than 2% shall be allowed for apples affected by internal breakdown; and

(iii) Not more than 2% shall be allowed for apples affected by slight scald.

(d) Container packs shall comply with packing requirements specified in R 285.545.13.

(e) Any lot of apples shall be considered as meeting the U.S. condition standards for export if the entire lot averages within the requirements specified. However, no package in any lot shall have more than double the percentages specified, except that for packages which contain 10 pounds or less, individual packages in any lot may have not more than 3 times the tolerance or 1 apple (whichever is the greater amount).

History: 1954 ACS 53, p. 7, Eff. Feb. 14, 1968.

R 285.546.2 Source, condition, and grade.

Rule 2. (1) Only apples produced, packed, and processed within the state of Michigan may be identified with the Michigan seal of quality.

(2) Each lot of apples identified with the Michigan seal of quality shall be graded in accordance with standards set forth in these rules.

(3) Each lot of apples shall be accompanied by a federal-state inspection certificate denoting compliance with seal of quality grade.

(4) The grade for Michigan seal of quality shall be a combination of U.S. extra fancy and U.S. fancy grades, and U.S. condition standards for export shall be applied to apples packed under the Michigan seal of quality. When packing this combination grade, at least 50% of the apples in any lot shall meet the requirements of the higher grade.

History: 1954 ACS 53, p. 10, Eff. Feb. 14, 1968.

R 285.546.3 Seal of quality.

Rule 3. The Michigan seal of quality label, tag, or other device bearing the official emblem shall be obtained only at sources approved by the Michigan

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department of agriculture and at a cost as set forth in the established schedule of fees. The Michigan seal of quality is available for use in marketing apples to any person, firm, or corporation who complies with these rules and any instructions issued therewith.

History: 1954 ACS 53, p. 10, Eff. Feb. 14, 1968.

R 285.546.4 Agreements and permits.

Rule 4. No person, firm, or corporation shall use the Michigan seal of quality in connection with the grading and labeling of apples unless there is in force an official written agreement between the applicant and the Michigan department of agriculture. The director shall issue a permit to make an imprint on tags, labels, and other devices of the Michigan seal of quality for apples to manufacturers who sign an official agreement with the Michigan department of agriculture. Agreements and permits shall be renewed annually upon request prior to date of expiration and shall be in effect unless the holders are otherwise notified by the director.

History: 1954 ACS 53, p. 10, Eff. Feb. 14, 1968.

R 285.546.5 Penalties.

Rule 5. A violation of any of the applicable laws and rules shall be grounds for revocation of the permit to use the Michigan seal of quality and subjects the violator to other penalties as prescribed by law.

History: 1954 ACS 53, p. 10, Eff. Feb. 14, 1968.

R 285.546.6 Standards of quality; U.S. extra fancy.

Rule 6. "U.S. extra fancy" consists of apples of 1 variety which are mature but not overripe, carefully handpicked, clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, bitter pit, Jonathan spot, freezing injury, visible water core, and broken skins and bruises except those which are slight and incident to proper handling and packing. The apples are also free from injury caused by smooth net-like russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by smooth solid, slightly rough or rough russeting, or stem or calyx cracks. Each apple of this grade has the amount of color specified in table 1 for the variety.

History: 1954 ACS 53, p. 10, Eff. Feb. 14, 1968.

R 285.546.7 Standards of quality; U.S. fancy.

Rule 7. "U.S. fancy" consists of apples of 1 variety which are mature but not overripe, carefully handpicked, clean, fairly well formed; free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, visible water core, and broken skins and bruises except those which are incident to proper handling and packing. The apples are also free from damage caused by russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, or damage by other means. Each apple of this grade has the amount of color specified in table 1 for the variety.

History: 1954 ACS 53, p. 11, Eff. Feb. 14, 1968.

R 285.546.8 Color.

Rule 8. (1) In addition to the requirement specified for the grades set forth in R 285.546.6 and R 285.546.7, apples of these grades shall have the percentage of color specified for the variety in table 1 appearing in this section.

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(2) For the solid red varieties the percentage stated refers to the area of the surface which shall be covered with a good shade of solid red characteristic of the variety. However, an apple having color of a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to a grade, if it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red color characteristic of the variety required for the grade.

(3) For the striped red varieties the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the variety shall predominate over stripes of lighter red, green, or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety may be admitted to a grade, if it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of stripes of a good red characteristic of the variety required for the grade.

(4) Faded brown stripes shall not be considered as color except in the case of the Gray Baldwin variety.

TABLE 1

Color for Michigan Seal of Quality Grade for Apples by Variety

Variety	U.S. Extra Fancy	U.S. Fancy
	Percent	Percent
Solid Red:		
Winesap	66	40
Red Sport Varieties[1]	66	40
Striped or Partially Red:		
Jonathan	66	33
McIntosh	50	33
Cortland	50	33
Rome Beauty	50	33
Stayman	50	33
Delicious	50	25
Turley	50	25
Northern Spy	50	25
Golden Delicious[2]		

Any other variety not listed shall have the same color requirements specified for U.S. grades of apples by variety.

[1]When Red Sport varieties are specified as such, they shall meet the color requirements specified for Red Sport variety.

[2]Seventy-five percent or more of the surface of the apple shall show white or light green predominating over the green color.

History: 1954 ACS 53, p. 11, Eff. Feb. 14, 1968.

R 285.546.9 Tolerances.

Rule 9. (1) Apples to which the Michigan seal of quality emblem has been affixed shall meet the following requirements:

(a) Defects: 10% of the apples in any lot may fail to meet the requirements of the grade, but not more than ½ of this amount, or 5% shall be allowed for apples which are seriously damaged, including therein not more than 1% for apples affected by decay or internal breakdown.

(b) When applying the foregoing tolerances to combination grades no part of any tolerance shall be allowed to reduce, for the lot as a whole, the 50% of apples

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of the higher grade required in the combination but individual containers shall have not less than 40% of the higher grade.

(c) Size:

(i) When size is designated by the numerical count for a container, not more than 5% of the apples in the lot may vary more than ¼ inch in diameter.

(ii) When size is designated by minimum or maximum diameter, not more than 5% of the apples in any lot may be smaller than the designated minimum and not more than 10% may be larger than the designated maximum.

History: 1954 ACS 53, p. 12, Eff. Feb. 14, 1968.

R 285.546.10 Application of tolerances.

Rule 10. The contents of individual packages in the lot based on sample inspection are subject to the following limitations if the average for the entire lot is within the tolerances specified for the grade:

(a) Packages which contain more than 10 pounds shall have not more than 1½ times a specified tolerance of 10% or more and not more than double a tolerance of less than 10%, except that at least 1 apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

(b) Packages which contain 10 pounds or less shall have not over 10% of the packages with more than 3 times the tolerance specified, except that at least 1 defective apple may be permitted in any package. However, not more than 1 apple or more than 6% (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

History: 1954 ACS 53, p. 12, Eff. Feb. 14, 1968.

R 285.546.11 Calculation of percentages.

Rule 11. (1) When the numerical count is marked on the container, percentages shall be calculated on the basis of count.

(2) When the minimum diameter or minimum and maximum diameters are marked on the container, percentages shall be calculated on the basis of weight.

(3) When the apples are in bulk, percentages shall be calculated on the basis of weight.

History: 1954 ACS 53, p. 12, Eff. Feb. 14, 1968.

R 285.546.12 Condition after storage or transit.

Rule 12. Decay, scald, or any other deterioration which may have developed on apples after they have been in storage or transit shall be considered as affecting condition and not the grade.

History: 1954 ACS 53, p. 12, Eff. Feb. 14, 1968.

R 285.546.13 Packing.

Rule 13. (1) Apples tray packed or cell packed in cartons shall be arranged according to approved and recognized methods. Packs shall be at least fairly tight or fairly well filled.

(2) Closed cartons containing apples not tray or cell packed shall be fairly well filled or the pack shall be sufficiently tight to prevent any appreciable movement of the apples.

(3) Packs in wooden boxes or baskets shall be sufficiently tight to prevent any appreciable movement of apples within containers when the packages are closed. Each wrapped apple shall be completely enclosed by its individual wrapper.

(4) Apples on the shown face of any container shall be reasonably representative of size, color, and quality of the contents.

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(5) Tolerances: In order to allow for variations incident to proper packing, not more than 10% of the containers in any lot may fail to meet these requirements.

(6) Two or more varieties may be packed in the same container.

History: 1954 ACS 53, p. 12, Eff. Feb. 14, 1968.

R 285.546.14 Marking.

Rule 14. (1) The numerical count or the minimum diameter of the apples packed in a closed container shall be indicated on the container.

(2) When the numerical count is not shown, the minimum diameter shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, or whole inches and not less than ⅛ inch fractions thereof, in accordance with the facts.

(3) "Minimum," or its abbreviation, when following a diameter size marking, means that the apples are of the size marked or larger.

History: 1954 ACS 53, p. 13, Eff. Feb. 14, 1968.

R 285.546.15 Coolers, holding rooms, and storage facilities.

Rule 15. Coolers, holding rooms, and any other facility in which apples are held, stored, or in any manner maintained for periods longer than required for normal movement of fresh apples shall:

(a) Be constructed, maintained, and operated in compliance with Michigan laws and rules governing food establishments, food handling, and sanitation.

(b) Not be used for commodities and products not compatible with food products.

(c) Be free from objectionable odors and from molds.

(d) Be maintained in a sanitary condition.

History: 1954 ACS 53, p. 13, Eff. Feb. 14, 1968.

REGULATION NO. 547. HAZARDOUS SUBSTANCES

(By authority conferred on the director of agriculture by section 9 of Act No. 188 of the Public Acts of 1965, being §286.459 of the Michigan Compiled Laws)

R 285.547.1 Federal regulations.

Rule 1. Pursuant to the provisions of Act No. 188 of the Public Acts of 1965, section 9, the regulations, including all supplements and amendments thereto, promulgated by the United States department of health, education, and welfare, food and drug administration, effective February, 1965, and all amendments through December 1, 1966, under the hazardous substances labeling act, except as otherwise specifically defined or described in said Act No. 188, shall be the regulations under the Michigan hazardous substances labeling act and are hereby adopted.

History: 1954 ACS 59, p. 32, Eff. Aug. 14, 1969.

REGULATION NO. 548. SALE OF CHERRIES SUSPENDED IN LIQUID

(By authority conferred on the director of agriculture by sections 8 and 23 of Act No. 283 of the Public Acts of 1964, as amended, being §§290.608 and 290.623 of the Michigan Compiled Laws)

R 285.548.1 Quantity determinations.

Rule 1. When a person, firm, or corporation purchases cherries by volume suspended in liquid, the quantity determination shall be made as follows:

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(a) Cherries shall be held in a tank containing sufficient liquid to at least entirely cover the cherries at the time of measurement. The determination shall be made only after the cherries have been transported a distance of at least ½ mile in the tank, or have reached a constant level.

(b) The determination shall be made at the time custody of the cherries is transferred from the grower to the buyer or an agent of the buyer.

(c) The determination shall be made using a standardized cherry measurement tank and a calibrated gauge rod, both of which shall meet the requirements of these rules.

(d) The determination shall be made only when the cherry measurement tank is in a level condition.

(e) The determination shall be made and recorded in terms of cubic feet and decimal fractions of a cubic foot, with no conversion to weight allowed.

History: 1954 ACS 63, p. 6, Eff. Aug. 14, 1970; 1954 ACS 76, p. 8, Eff. Aug. 21, 1973.

R 285.548.2 Cherry measurement tanks.

Rule 2. (1) A cherry measurement tank shall be designed to be in a normal operating position when it is in level.

(2) A tank shall be of the center reading type; that is, it shall be so designed that a gauge rod, when properly positioned for use, will be approximately in the vertical axis of the tank centrally positioned with respect to the tank walls.

(3) A tank shall be rectangular or square in design but its length shall not exceed its width by more than ⅓.

(4) The cross sectional area of a tank shall be constant at any level and the tank shall be so constructed that under any condition of lading it will not be distorted sufficiently to cause a change in the capacity at any level equal to more than 16 cubic inches. This requirement prescribes a limit on permissible distortion only, and is not to be construed as a secondary, additional tolerance.

(5) A tank shall be of such material, design, and construction that under normal handling it will maintain its rectangular or square design and required accuracy for a reasonable length of time.

(6) A tank shall be conspicuously and permanently marked to indicate the cubic capacity of the tank per inch depth throughout its measurement range.

(7) A tank manufactured and offered for sale after the effective date of these rules shall be marked with the name and address of the manufacturer.

(8) The maintenance and acceptance tolerance on a tank with a capacity of 30 cubic feet or less shall be 150 cubic inches in excess or deficiency; that is, the cubical content at any point in the tank within the measurement range shall not differ more than 150 cubic inches from a calculated volume determined by multiplying the depth of the tank from that point by the indicated cubical capacity of the tank per inch depth, except as provided for in subrule (9).

(9) The maintenance tolerance for a tank now in use for the determination of volume measurement shall be 1% excess or deficiency within the measurement range; however, a tank that does not meet all of the requirements in this rule shall not be used after January 1, 1973.

History: 1954 ACS 63, p. 6, Eff. Aug. 14, 1970.

R 285.548.3 Cherry gauge rods.

Rule 3. (1) The indicating means shall consist of a calibrated gauge rod and level indicating plate.

(2) The rod shall be of rigid design, made of stainless steel smoothly finished with the probe and tapered to ½ inch, and, when properly seated in position, shall

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touch the bottom of the holding tank being measured. The rod shall be graduated throughout an interval corresponding to the range within which readings of the cherry level are to be made.

(3) On a rod the spacing of the graduation center to center shall be not more than .0625 (1/16) inch and not less than .03125 (1/32) inch. The graduation shall be not less than .005 inch in width and the clear interval between adjacent edges of successive graduations shall be not less than .015625 (1/64) inch. The graduations shall be designated in inches, 0.5 inches, 0.1 inches, and 0.02 inches.

(4) The level indicating plate assembly shall consist of a rigid plate and a slider tube designed to move up and down the calibrated gauge rod. The rigid plate shall be a perforated round disk of stainless steel, 10 inches in diameter, with the perforations not exceeding 3/8 inch in diameter. The plate shall be permanently attached to the slider tube. The slider assembly shall move freely on the gauge rod without slip and shall weigh 4 pounds, plus or minus 1/10 of 1%.

History: 1954 ACS 63, p. 7, Eff. Aug. 14, 1970.

R 285.548.4 Price and delivery tickets.

Rule 4. (1) The price of cherries in liquid shall be established on a cubic foot basis, with no conversion to weight allowed.

(2) A delivery ticket in duplicate shall be issued by the receiver for each lot of cherries received. The original shall be retained by the receiver and a copy given to the grower. A delivery ticket shall bear the following:

(a) Name and address of receiver.

(b) Name and address of grower.

(c) Date of receival.

(d) Cubical content of the tank per 1 inch depth.

(e) Depth of the cherries contained in the tank to the nearest .02 of an inch.

(f) Total cubic feet of cherries and decimal fraction thereof contained in the tank.

(g) Signature of the person making the quantity determination.

History: 1954 ACS 63, p. 7, Eff. Aug. 14, 1970; 1954 ACS 76, p. 8, Eff. Aug. 21, 1973.

R 285.548.9 Rescission.

Rule 9. Regulations Nos. 504, 509, 511, 512, 516, 517, 519, 524 and 526, being R 285.504, R 285.509, R 285.511, R 285.512, R 285.516, R 285.517, R 285.519, R 285.524 and R 285.526 of the Michigan Administrative Code and appearing on pages 1528 to 1531, 1534, 1536, 1547 and 1550 of the 1954 volume of the Code, and Regulation No. 529, being R 285.529.1 to R 285.529.4 of the Michigan Administrative Code and appearing on pages 1188 and 1189 of the 1959 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

REGULATION NO. 549. NONALCOHOLIC BEVERAGES

(By authority conferred on the commission of agriculture by sections 15 and 23 of Act No. 39 of the Public Acts of 1968, and section 9 of Act No. 380 of the Public Acts of 1965, being §§289.715, 289.723, and 16.109 of the Michigan Compiled Laws)

R 285.549.1 Definitions of beverages and sweeteners.

Rule 1. (1) As used in these rules:

(a) "Beverage" means fruit juice, fruit juice reconstituted, combined fruit juice, dilute fruit juice or fruit flavored beverage, cereal beverage, artificially sweetened

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beverage, artificially sweetened beverage with nutritive sweetener added, imitation beverage and potable water. It may be heat-treated, chilled, canned or frozen.

(b) "Nonalcoholic beverage" means a beverage containing less than ½ of 1% alcohol.

(c) "Water" means potable water intended for, used for, or sold for use as a beverage or component thereof for human consumption and which conforms to the United States public health service regulations for potable water with respect to bacteriological purity.

(d) "Nutritive sweetener" means sucrose, sugar syrup, corn syrup, fructose, invert sugar syrup, dextrose, dried corn syrup, glucose syrup, or dried glucose syrup.

(e) "Nonnutritive artificial sweetener" includes, but is not limited to, saccharin and the harmless salts thereof.

History: 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

R 285.549.2 Definitions of flavors and colors.

Rule 2. (1) "Natural flavor" means a flavor derived from natural sources, such as fruits, vegetables, leaves, roots, barks, or berries, and which may contain ethyl alcohol or other suitable vehicle or solvent.

(2) "True fruit flavor" means a natural flavor derived from and limited to essence, extract, concentrate or oil of the fruit named.

(3) "Artificial flavor" means a synthetically produced flavor containing any sapid or aromatic constituent.

(4) "Natural color" means a harmless coloring material found in nature which is derived by extraction or other method from natural sources or synthesized to be identical with naturally occurring materials.

(5) "Artificial color" means a harmless coloring material not found in nature which is manufactured by a process of synthesis or similar artifice.

History: 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

R 285.549.3 Definitions; miscellaneous.

Rule 3. (1) "Dietary supplement" means vitamins and minerals used to supplement a person's diet.

(2) "Chemical preservative" means a chemical that tends to prevent or retard deterioration of the beverage to which it is added.

(3) "Label" means a display of printed or graphic matter on the immediate container or on a wraparound carrier that obscures the labeling on the individual container.

(4) "Principal display panel" means that part of the label most likely to be displayed under customary conditions.

(5) "Area of principal display panel" means the area of the side or surface of the package which bears the principal display panel. In the case of cartons, this is 1 side excluding the gable; in the case of bottles or cans, this is 40% of the product of the height times the circumference, excluding flanges, tops, heels, and necks of bottles.

History: 1954 ACS 63, p. 8, Eff. Aug. 14, 1970.

R 285.549.5 Exemptions.

Rule 5. A nonalcoholic noncarbonated beverage specially prepared for infants is exempt from these rules when manufactured, sold, advertised, or offered for sale for such purpose.

History: 1954 ACS 63, p. 9, Eff. Aug. 14, 1970.

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R 285.549.7 Compliance with federal regulations.

Rule 7. (1) A nonalcoholic noncarbonated beverage, for which a standard of identity has been established by regulation under the federal food, drug and cosmetic act and which is in existence on the effective date of these rules, shall be manufactured, packaged, and labeled to conform to the provisions of the federal standard.

(2) A nonalcoholic nutritively sweetened or unsweetened carbonated beverage, for which a standard of identity has been established by regulation under the federal food, drug and cosmetic act and which is in existence on the effective date of these rules, shall comply with the provisions of the federal standard.

History: 1954 ACS 63, p. 9, Eff. Aug. 14, 1970.

R 285.549.9 Dilute fruit juices.

Rule 9. (1) "Fruit juice from concentrate" means the beverage composed of water and concentrated fruit juice if the concentrated juice is reconstituted to a reasonable average natural strength. Single strength fruit juice may be added. Juice from 1 or more fruits may be used. It may contain an added nutritive sweetener and a preservative.

(2) The name of the beverage is "_____ juice from concentrate," the blank to be filled with the name of the fruit. If more than 1 fruit is used the names shall appear in order of descending predominance. "From concentrate" shall be in letters at least ½ the height of those in the name of the fruit juice.

(3) When a sweetener is used "sweetened" or "_____ added," the blank to be filled with the name of the sweetener used shall be added immediately preceding or immediately following the name of the beverage.

(4) When a preservative is added, the preservative shall be declared by name and qualified as a preservative in a statement immediately following the name of the beverage, with no intervening printed or graphic material.

History: 1954 ACS 63, p. 9, Eff. Aug. 14, 1970.

R 285.549.10 Combined fruit juices.

Rule 10. (1) "Combined fruit juice" means the beverage composed of juice from 2 or more fruits, 1 of which is a concentrated juice, blended with water to restore the concentrated juice to a reasonable average natural strength. It may contain an added nutritive sweetener and a preservative.

(2) The name of the beverage is the names of the fruits in order of descending predominance, with the statement of ingredients immediately following, or "combined fruit juice" or "mixed fruit juice" preceded or followed by the names of the fruits.

(3) The ingredients shall be listed in order of descending predominance.

History: 1954 ACS 63, p. 9, Eff. Aug. 14, 1970.

R 285.549.11 Fruit juice-drinks.

Rule 11. (1) "Fruit juice-drink" means the beverage composed of fruit juice or concentrated fruit juice or both from 1 or more fruits blended with water. It shall contain a minimum of 50% juice (average single strength equivalent) except cranberry juice-drink, which shall contain a minimum of 25% cranberry juice, and cherry juice-drink, which shall contain a minimum of 30% cherry juice.

(2) It may contain nutritive sweetener, true juice flavor derived from the fruit named, acidifying agents including lemon juice or concentrated lemon juice, or both, dietary supplement and preservative.

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(3) The name of the beverage is "_____ juice-drink," the blank to be filled with the name of the fruit on 1 line, with "juice-drink" in letters at least ½ the height of those in the name of the fruit on a separate line immediately below.

(4) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 9, Eff. Aug. 14, 1970; 1954 ACS 68, p. 11, Eff. June 17, 1971.

R 285.549.12 Fruit nectar.

Rule 12. (1) "Fruit nectar" means the beverage composed of pureed whole fruit blended with water with or without added fruit juice or concentrated fruit juice, or both; or composed of fruit juice or concentrated fruit juice, or both, and fruit pulp, blended with water. It shall contain a minimum of 40% juice (average single strength equivalent) of the fruit used except apricot nectar, which shall contain a minimum of 35% apricot juice; guava, 25% guava juice; papaya, 33% papaya juice; and orange, 50% orange juice.

(2) It may contain nutritive sweeteners, true fruit flavor derived from the fruit named, acidifying agents including lemon juice or concentrated lemon juice, or both, dietary supplement and preservative.

(3) The name of the beverage is "_____ nectar," the blank to be filled with the name of the fruit used.

(4) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 9, Eff. Aug. 14, 1970.

R 285.549.13 Fruit ades.

Rule 13. (1) "Fruit ade" means the beverage composed of fruit juice or concentrated fruit juice, or both, blended with water. It shall contain a minimum of 25% juice (average single strength equivalent) of the fruit named except cranberry ade, lemonade, limeade, and lemon-lime ade, which shall contain a minimum of 10% juice.

(2) It may contain nutritive sweetener, true fruit flavor, acidifying agents including lemon juice or concentrated lemon juice, or both, dietary supplement, natural or artificial color and preservative.

(3) The name of the beverage is "_____ ade," the blank to be filled with the name of the fruit. Where more than 1 fruit is used, the names shall appear in order of descending predominance.

(4) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 10, Eff. Aug. 14, 1970.

R 285.549.14 Fruit punches.

Rule 14. (1) "Fruit punch" means the beverage composed of 2 or more fruit juices or concentrated fruit juices, or both, blended with water. It shall contain a minimum of 10% juice (average single strength equivalent) of the fruits used.

(2) It may contain nutritive sweetener, true fruit flavor, natural flavor, acidifying agent, stabilizer, emulsifier, buffering salt, dietary supplement, natural or artificial color and preservative.

(3) The name of the beverage is "fruit punch" or "_____ punch," the blank to be filled with the name of the fruits used or with a term descriptive of the beverage.

History: 1954 ACS 63, p. 10, Eff. Aug. 14, 1970.

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R 285.549.15 Fruit drinks.

Rule 15. (1) "Fruit drink" means the beverage composed of fruit juice, concentrated fruit juice, or both, from 1 or more fruits, blended with water. It shall contain a minimum of 10% juice (average single strength equivalent) except cranberry drink, lemon drink, lime drink, and lemon-lime drink, which shall contain a minimum of 6% juice (average single strength equivalent).

(2) It may contain nutritive sweetener, true fruit flavor, natural flavor, acidifying agent, stabilizer, emulsifier, buffering salt, dietary supplement, natural or artificial color and preservative.

(3) The name of the beverage is "_____ drink," the blank to be filled with the name of the fruit from which juice is derived. Where more than 1 fruit juice is used, the names shall appear in order of descending predominance.

(4) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 10, Eff. Aug. 14, 1970.

R 285.549.16 Punches.

Rule 16. (1) "Punch" means the beverage meeting requirements for fruit punch in all respects except juice content. It shall contain less than 10% fruit juice (average single strength equivalent) of the fruits from which juice is derived.

(2) The name of the beverage is "fruit flavored punch"; "_____ flavored punch," the blank to be filled with the name of the predominant flavor; or "_____ punch," the blank to be filled with a coined name or descriptive name other than the name of a fruit.

(3) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 10, Eff. Aug. 14, 1970.

R 285.549.17 Fruit flavored drinks.

Rule 17. (1) "Fruit flavored drink" means the beverage meeting the requirements for fruit drink in all respects except juice content. It shall contain less than 10% fruit juice, except cranberry flavored drink, lemon flavored drink, lime flavored drink and lemon-lime flavored drink, which shall contain less than 6% fruit juice.

(2) The name of the beverage is "_____ flavored drink," the blank to be filled with the name of the fruit from which juice is derived.

(3) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 11, Eff. Aug. 14, 1970.

R 285.549.18 Imitation beverages.

Rule 18. (1) A nonalcoholic beverage similar to but not complying with a standard herein provided is an imitation.

(2) The name of the beverage is "imitation _____," the blank to be filled with the name of the standardized beverage imitated.

(3) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 11, Eff. Aug. 14, 1970.

R 285.549.20 Artificially sweetened nonalcoholic beverages.

Rule 20. (1) "Artificially sweetened nonalcoholic carbonated or noncarbonated beverage" means a beverage which complies with the standard provided

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herein for the similar nutritively sweetened beverage except for the sweetener. It shall be sweetened with nonnutritive artificial sweetener. It shall not contain added nutritive sweetener. It may contain substances safe for use in dietary foods.

(2) The name of the beverage is "artificially sweetened" followed or preceded by the name of the similar nutritively sweetened beverage, with the words "artificially sweetened" in letters at least ½ the height of those in the words of the rest of the product identity.

(3) The label shall bear:

(a) A complete list of ingredients by common name in order of descending predominance, including the name of the artificial sweetener.

(b) A warning statement on the artificial sweetener separated from the list of ingredients, such as "contains _____, a nonnutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets," the blanks to be filled with the amount and name of the artificial sweetener.

(c) A declaration of the fat, protein, available carbohydrates and caloric content.

History: 1954 ACS 63, p. 11, Eff. Aug. 14, 1970.

R 285.549.21 Artificially and nutritively sweetened nonalcoholic beverages.

Rule 21. (1) "Artificially and nutritively sweetened nonalcoholic carbonated or noncarbonated beverage" means a beverage which complies with the standard provided herein for the similar artificially sweetened beverage except it shall contain an added nutritive sweetener.

(2) The name of the beverage is the name that would identify the similar nutritively sweetened beverage followed or preceded by "artificially sweetened and contains _____," the blank to be filled with the name of the nutritive sweetener; "artificially and nutritively sweetened"; or "artificial and nutritive sweeteners added" in letters at least ½ the height of those in the other words in the product identity.

(3) The label shall bear the statement "Contains sugar(s)," a complete list of ingredients in order of descending predominance; and in a separate paragraph the following information: (a) caloric content per fluid ounce, (b) carbohydrate content per fluid ounce, (c) percentage of nonnutritive sweetener plus the statement "Contains _____ mg. _____ per ounce, a nonnutritive artificial sweetener," the blanks to be filled with the number of milligrams per fluid ounce and the name of the artificial sweetener, and (d) a statement of warning to diabetics of the presence of sugar. The statement "Contains sugar" may be omitted where these words are used as a part of the name of the beverage.

History: 1954 ACS 63, p. 11, Eff. Aug. 14, 1970.

R 285.549.22 Nonalcoholic cereal beverages.

Rule 22. (1) "Nonalcoholic cereal beverage" means the beverage composed of water blended with barley, malt, hops or other cereal and which may contain added nutritive sweetener and dietary supplement.

(2) The name of the beverage is "_____, a nonalcoholic cereal beverage" or "_____, a nonalcoholic malt beverage," the blank to be filled with a descriptive or coined name. The name shall not include the word "brew," "bru" or any term that would indicate the presence of alcohol.

(3) The label shall bear a complete list of ingredients by common name in order of descending predominance.

History: 1954 ACS 63, p. 11, Eff. Aug. 14, 1970.

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R 285.549.24 Labels; product names, ingredients, and processors.

Rule 24. Each container of a beverage for which a standard of identity is provided herein shall bear in addition to requirements under other applicable laws:

(a) Name of the product. The product shall be identified by the name provided in this regulation. Unless otherwise specified the words in the name shall be in letters of the same size and color on a background of contrasting color and shall appear on the principal display panel.

(b) Ingredient information. A declaration of optional ingredients required by the provision of a standard shall appear immediately preceding or immediately following the product identity. Where a complete list of ingredients is required, the list, in order of descending predominance, may appear on any information panel. It shall be complete on that 1 panel.

(c) Identification of manufacturer, packer or distributor by name and address, including city, state and zip code, on any information panel. The street address shall be included if not listed in a current local directory. In case of a corporation only the corporate name will satisfy this requirement. The name of 1 division may be added. If the company identified is not the manufacturer it shall be qualified to reveal the connection with the beverage, as "packed for," "distributed by," or similar terminology that states the facts. The principal place of business of the manufacturer, packer or distributor will satisfy the address requirement.

History: 1954 ACS 63, p. 12, Eff. Aug. 14, 1970.

R 285.549.25 Labels; miscellaneous requirements.

Rule 25. (1) On a label bearing a declaration of vitamin enrichment, a statement shall appear showing the amount of the specific vitamin in a specified serving of the beverage and its relation to the minimum or recommended daily requirement or allowance.

(2) Where a container bears more than 1 principal display panel, information required on the principal display panel shall appear on each principal display panel.

(3) On a container of a beverage packaged for distribution in another country as well as in the United States, the required information shall appear on the label in the English language. It may be shown in a foreign language at locations other than the principal display panel.

(4) When reference is made to a beverage for which a standard of identity has been established by these rules, the beverage shall be identified, as herein provided, on menus and in any advertising media.

History: 1954 ACS 63, p. 12, Eff. Aug. 14, 1970.

R 285.549.29 Rescission.

Rule 29. Regulation No. 503 governing "the manufacture and sale of soft drinks," being R 285.503 of the Michigan Administrative Code and appearing on page 1528 of the 1954 volume of the Code, and Regulation No. 535 entitled "nonalcoholic noncarbonated beverages," being R 285.535.1 to R 285.535.3 of the Michigan Administrative Code and appearing on pages 3116 to 3119 of the 1964-65 Annual Supplements to the Code, are rescinded.

History: 1954 ACS 63, p. 12, Eff. Aug. 14, 1970.

REGULATION NO. 551. WEIGHTS, MEASURES, PACKAGING, AND LABELING

(By authority conferred on the director of agriculture by section 8 of Act No. 283 of the Public Acts of 1964, as amended, being §290.608 of the Michigan Compiled Laws)

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PART 1. GENERAL PROVISIONS

R 285.551.1 Applicability.

Rule 1. These rules apply to packages and to commodities in package form, but do not apply to:

(a) An inner wrapping not intended to be individually sold to a customer.

(b) An auxiliary container or outer wrapping used to deliver a package of commodity to a retail customer if the container or wrapping bears no printed matter pertaining to any particular commodity.

(c) A container used for a retail tray pack display when the container itself is not intended to be sold, for example, the tray that is used to display individual envelopes of seasonings, gravies and the like.

(d) A commodity put up in variable weights and sizes contained in a bulk display and intended to be weighed or measured at time of sale and where the method of sale is clearly indicated in close proximity to the quantity of the commodity being sold.

(e) An open carrier and transparent wrapper or carrier for a container when the wrapper or carrier does not bear any written, printed or graphic matter obscuring the label information required by these rules.

History: 1954 ACS 75, p. 9, Eff. May 22, 1973.

R 285.551.4 Definitions in act and L, M.

Rule 4. (1) The terms defined in Act No. 283 of the Public Acts of 1964, as amended, being §§290.601 to 290.634 of the Michigan Compiled Laws, have the same meaning when used in these rules.

(2) "Label" means any written, printed or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on or appearing upon or adjacent to a consumer commodity or a package containing a consumer commodity, for purposes of branding, identifying or giving any information with respect to the commodity or to the contents of the package. An inspector's tag or other nonpromotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by these rules.

(3) "Multi-unit package" means a package containing 2 or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as a part of the multi-unit package but capable of being individually sold in full compliance with these rules.

History: 1954 ACS 75, p. 9, Eff. May 22, 1973.

R 285.551.6 Definitions; P to R.

Rule 6. (1) "Person" means an individual, partnership, company, corporation, association, society, or other entity.

(2) "Principal display panel" means that part of a label designed to be most likely displayed, presented, shown or examined under normal and customary conditions of display and purchase. The principal display panel shall be large enough to accommodate all mandatory label information required to be placed thereon by these rules with clarity and conspicuousness, without obscuring design or vignettes and without crowding. Where a principal display panel appears more than once on a package, all requirements pertaining to the principal display panel shall pertain to all principal display panels.

(3) "Random package" means a package that is 1 of a lot, shipment or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight.

History: 1954 ACS 75, p. 9, Eff. May 22, 1973.

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R 285.551.9 Rescission.

Rule 9. Regulation No. 540, entitled "Weights and Measures," being R 285.540.1 to R 285.540.21 of the Michigan Administrative Code and appearing on pages 3126 to 3132 of the 1964-65 Annual Supplements to the Code, is rescinded.

History: 1954 ACS 75, p. 9, Eff. May 22, 1973.

PART 2. DECLARATIONS ON PACKAGES

R 285.551.11 Declaration of identity; consumer and nonconsumer package.

Rule 11. (1) A declaration of identity on a consumer package shall appear on the principal display panel and shall positively identify the commodity in the package in terms of the name now or hereafter specified in or required by any applicable law, its common or usual name, generic term or appropriately descriptive term.

(2) The declaration on a consumer package shall appear generally parallel to the base on which the package rests as it is designed to be displayed.

(3) The declaration on a nonconsumer package shall appear on the outside of a package and shall identify the commodity in the package by its common or usual name, description, generic term or the like.

History: 1954 ACS 75, p. 9, Eff. May 22, 1973.

R 285.551.13 Declaration of responsibility; consumer and nonconsumer packages.

Rule 13. (1) A package kept, offered, exposed for sale or sold at any place other than on the premises where packed shall specify conspicuously on the label of the package the name and address of the manufacturer, packer or distributor. The name shall be the actual corporate name, or when not incorporated, the name under which the business is conducted. The address shall include street address, city, state and zip code; however, the street address may be omitted if this is shown in a current city directory or telephone directory.

(2) If a person manufactures, packs or distributes a commodity at a place other than his principal place of business, the label may state the principal place of business or the actual place where the commodity is manufactured, packed, or distributed, unless the statement of the principal place of business would be misleading.

(3) Where the commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection the person has with the commodity, such as "Manufactured for and packed by _____," "Distributed by _____," "Packed by _____," "Packed for _____" or any other words of similar import that express the facts.

History: 1954 ACS 75, p. 10, Eff. May 22, 1973.

R 285.551.15 Declaration of quantity on consumer packages.

Rule 15. Where these rules require the quantity declaration to be in terms of the largest whole unit, the declaration shall be in terms of the largest whole unit of weight or measure, with any remainder expressed in 1 of the following ways:

(a) Common or decimal fractions of the largest whole unit.

(b) The next smaller whole unit, or units, with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration.

History: 1954 ACS 75, p. 10, Eff. May 22, 1973.

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R 285.551.16 Net quantity.

Rule 16. (1) A declaration of net quantity of the commodity in the package, exclusive of wrappers and any other material packed with the commodity, shall appear on the principal display panel of a consumer package and shall be in terms of the largest whole unit unless otherwise specified in these rules. (See R 285.551.21 to R 285.551.25.)

(2) The term "net weight" shall be used in conjunction with the declaration of quantity in terms of weight. The term may precede or follow the declaration of weight.

(3) The declaration of quantity may appear on 1 or more lines of print or type.

History: 1954 ACS 75, p. 10, Eff. May 22, 1973.

R 285.551.17 Generic terms.

Rule 17. (1) The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid; or in terms of weight, if the commodity is solid, semisolid, viscous or a mixture of solid and liquid; or in terms of numerical count. If there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, the declaration of quantity may be expressed in its traditional terms if the traditional declaration gives accurate and adequate information as to the quantity of the commodity.

(2) A declaration of quantity in terms of weight shall be combined with appropriate declaration of the measure, count and size of the individual units, unless a declaration of weight alone is fully informative.

(3) A declaration of quantity in terms of measure shall be combined with appropriate declaration of the weight, count and size of the individual units, unless a declaration of measure alone is fully informative.

(4) A declaration of quantity in terms of count shall be combined with appropriate declaration of the weight, measure, and size of the individual units, unless a declaration of count alone is fully informative.

History: 1954 ACS 75, p. 10, Eff. May 22, 1973.

R 285.551.18 Quantitative terms.

Rule 18. (1) A declaration of quantity:

(a) In units of weight, shall be in terms of the avoirdupois pound or ounce.

(b) In units of liquid measure, shall be in terms of the United States gallon of 231 cubic inches or liquid quart, liquid pint or fluid ounce subdivisions of the gallon and shall express the volume at 68 degrees Fahrenheit except in the case of:

(i) Petroleum products, for which the declaration shall express the volume at 60 degrees Fahrenheit.

(ii) A commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature.

(iii) A commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 degrees Fahrenheit.

(c) In units of linear measure, shall be in terms of the yard, foot or inch.

(d) In units of area measure, shall be in terms of the square yard, square foot or square inch.

(e) In units of dry measure, shall be in terms of the United States bushel of 2,150.42 cubic inches or peck, dry quart and dry pint subdivisions of the bushel.

(f) In units of cubic measure, shall be in terms of the cubic yard, cubic foot or cubic inch.

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(2) In the case of a commodity packed for export shipment, the declaration of quantity may be in terms of the metric system of weight or measure.

History: 1954 ACS 75, p. 11, Eff. May 22, 1973.

R 285.551.19 Abbreviations.

Rule 19. The following abbreviations, and none other, may be employed in the quantity statement on a package of commodity. Periods and plural forms are optional. Normally neither periods nor plural forms are used.

avoirdupois	avdp	quart	qt
cubic	cu	square	sq
feet or foot	ft	weight	wt
fluid	fl	yard	yd
gallon	gal	cubic centimeter	cc
inch	in	gram	g
liquid	liq	kilogram	kg
ounce	oz	microgram	mcg
pint	pt	milligram	mg
pound	lb	milliliter	ml

History: 1954 ACS 75, p. 11, Eff. May 22, 1973.

R 285.551.20 Ambiguous terms.

Rule 20. When the term "ounce" is employed in a declaration of liquid quantity, the declaration shall identify the particular meaning of the term by use of the term "fluid"; however, this distinction may be omitted when, by association of terms, the proper meaning is obvious; for example, 1 pint 4 ounces. When the declaration of quantity is in terms of the dry pint or dry quart, the declaration shall include the word "dry."

History: 1954 ACS 75, p. 11, Eff. May 22, 1973.

R 285.551.21 Units of less than 1.

Rule 21. (1) The declaration of quantity for units of less than 1 foot, 1 square foot, 1 pound or 1 pint shall be expressed in terms of:

(a) Inches and fractions of inches, in the case of length measure of less than 1 foot.

(b) Square inches and fractions of square inches, in the case of area measure of less than 1 square foot.

(c) Ounces and fractions of ounces, in the case of weight of less than 1 pound.

(d) Ounces and fractions of ounces, in the case of fluid measure of less than 1 pint.

(2) The quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than 2 decimal places.

History: 1954 ACS 75, p. 11, Eff. May 22, 1973.

R 285.551.22 Units of 4 or more.

Rule 22. A declaration of quantity for units of 4 feet or more, 4 square feet or more, 4 pounds or more or 1 gallon or more shall be expressed in terms of:

(a) In the case of length measure of 4 feet or more:

(i) Feet followed in parentheses by a declaration of yards and common or decimal fractions of the yard.

(ii) Feet followed in parentheses by a declaration of yards, with any remainder in terms of feet and inches.

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(b) The largest whole unit, in the case of area measure of 4 square feet or more, weight of 4 pounds or more or fluid measure of 1 gallon or more.

History: 1954 ACS 75, p. 11, Eff. May 22, 1973.

R 285.551.23 Units of 1 to less than 4; dual quantity declarations.

Rule 23. (1) The declaration of quantity on a package containing 1 pound or more but less than 4 pounds shall be expressed in ounces, followed by a declaration in parentheses, expressed in terms of the largest whole unit. The quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than 2 decimal places.

(2) The declaration on a package containing 1 pint or more but less than 1 gallon, shall be expressed in ounces, followed by a declaration in parentheses, expressed in terms of the largest whole unit.

(3) The declaration on a package containing 1 foot or more but less than 4 feet shall be expressed in inches followed by a declaration in parentheses, expressed in terms of the largest whole unit.

(4) The declaration on a package containing 1 square foot but less than 4 square feet, shall be expressed in square inches followed by a declaration in parentheses, expressed in terms of the largest whole unit.

History: 1954 ACS 75, p. 12, Eff. May 22, 1973.

R 285.551.24 Bidimensional commodities.

Rule 24. The declaration for bidimensional commodities, including roll-type commodities, shall be expressed:

(a) If less than 1 square foot, in terms of linear inches and fractions of linear inches.

(b) If at least 1 square foot but less than 4 square feet, in terms of square inches followed in parentheses, by a declaration of both the length and width, each being in terms of the largest whole unit; however:

(i) A square inch declaration is not required for a bidimensional commodity 4 inches or less in width.

(ii) A dimension of less than 2 feet may be stated in inches, in parentheses.

(iii) A commodity consisting of usable individual units except a roll-type commodity with individual usable units created by perforations, requires a declaration of unit area but not a declaration of total area of all such units.

(c) If 4 square feet or more, in terms of square feet followed, in parentheses, by a declaration of the length and width in terms of the largest whole unit; however:

(i) A declaration in square feet is not required for a bidimensional commodity 4 inches or less in width.

(ii) A dimension of less than 2 feet may be stated in inches, in parentheses.

(iii) A declaration in square feet is not required for a commodity for which the length and width measurements are critical in terms of end use if the label on the commodity clearly presents the length and width measurements; for example, tablecloths or bedsheets.

History: 1954 ACS 75, p. 12, Eff. May 22, 1973.

R 285.551.25 Count and ply.

Rule 25. (1) If the commodity is in individually usable units of 1 or more components or ply, the quantity declaration shall include the number of plies and the total number of usable units. This is in addition to the other applicable quantity declaration requirements of this regulation.

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(2) Roll-type commodities, when perforated so as to identify the individual usable units, shall not be deemed to be made up of usable units. However, roll-type commodities shall be labeled in terms of:

(a) Total area measurement.

(b) Number of plies.

(c) Count of usable units.

(d) Dimensions of a single usable unit.

History: 1954 ACS 75, p. 12, Eff. May 22, 1973.

R 285.551.26 Fractions.

Rule 26. A statement of net quantity of contents of a consumer commodity may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds. A common fraction shall be reduced to its lowest terms; a decimal fraction shall be carried out to not more than 2 places, except that:

(a) If there exists an established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed.

(b) If linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds.

History: 1954 ACS 75, p. 12, Eff. May 22, 1973.

R 285.551.27 Supplementary declarations.

Rule 27. (1) The required quantity declaration may be supplemented by 1 or more declarations of weight, measure or count, but such declarations shall appear other than on a principal display panel.

(2) A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement, and a statement of quantity in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels.

(3) A declaration of quantity shall not be qualified by the addition of the words "when packed," "minimum," "not less than" or words of similar import nor shall any unit of weight, measure or count be qualified by any term that tends to exaggerate the amount of commodity, for example "jumbo," "giant," "full" or words of similar import.

History: 1954 ACS 75, p. 13, Eff. May 22, 1973.

R 285.551.28 Declaration of quantity on nonconsumer packages.

Rule 28. (1) A nonconsumer package shall bear a declaration of the net quantity of contents on the outside. The declaration shall be in terms of the largest whole unit.

(2) The average quantity of contents in the package of a particular lot, shipment or delivery at least shall equal the declared quantity and an unreasonable shortage in any package shall not be permitted even though overages in other packages in the same shipment, delivery or lot compensate for the shortage.

(3) The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid; or in terms of weight if the commodity is solid, semisolid, viscous or a mixture of solid and liquid; or in terms of numerical count. If there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, the declaration of quantity

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may be expressed in its traditional terms if the traditional declaration gives accurate and adequate information as to the quantity of the commodity.

History: 1954 ACS 75, p. 13, Eff. May 22, 1973.

R 285.551.29 Units of weight and measure on a nonconsumer package.

Rule 29. (1) A declaration of quantity on a nonconsumer package:

(a) In units of weight, shall be in terms of the avoirdupois pound or ounce.

(b) In units of liquid measure, shall be in terms of the United States gallon of 231 cubic inches or liquid quart, liquid pint or fluid ounce subdivisions of the gallon and shall express the volume at 68 degrees Fahrenheit except in the case of:

(i) Petroleum products, for which the declaration shall express the volume at 60 degrees Fahrenheit.

(ii) A commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at frozen temperature.

(iii) A commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 degrees Fahrenheit.

(c) In units of linear measure, shall be in terms of the yard, foot or inch.

(d) In units of area measure, shall be in terms of the square yard, square foot or square inch.

(e) In units of dry measure, shall be in terms of the United States bushel of 2,150.42 cubic inches, or peck, dry quart and dry pint subdivisions of the bushel.

(f) In units of cubic measure, shall be in terms of the cubic yard, cubic foot or cubic inch.

(2) Nothing in this rule shall prohibit the labeling of a nonconsumer package in terms of units of the metric system.

History: 1954 ACS 75, p. 13, Eff. May 22, 1973.

R 285.551.30 Abbreviations; package of nonconsumer commodity.

Rule 30. A generally accepted abbreviation of a unit name may be employed in the quantity statement on a package of a nonconsumer commodity.

History: 1954 ACS 75, p. 13, Eff. May 22, 1973.

PART 3. PROMINENCE AND PLACEMENT OF DECLARATIONS

R 285.551.41 Consumer packages; English language; location.

Rule 41. (1) All information required to appear on a consumer package shall be in the English language and shall be prominent, definite, and plain and shall be conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background.

(2) The declaration of quantity of the contents of a consumer package shall appear in the bottom 30% of the principal display panel except as provided for cylindrical containers in subrule (4) of R 285.551.51 and as provided for small packages in subrule (1) of R 285.551.74.

(3) The declaration of quantity shall be in a color that contrasts conspicuously with its background, except that a declaration of net quantity blown, formed or molded on a glass or plastic surface shall not be required to be presented in a contrasting color if no required label information is on the surface in a contrasting color.

(4) The area above and below the quantity declaration shall be free of printed information by a space equal to at least the height of the lettering in the declaration. The area to the left and right of the quantity declaration shall be free of printed information by a space equal to twice the width of the letter "N" of the style and size of type used in the declaration.

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(5) The quantity declaration shall be presented in such a manner as to be generally parallel to the declaration of identity and to the base on which the package rests as it is designed to be displayed.

History: 1954 ACS 75, p. 14, Eff. May 22, 1973.

R 285.551.42 Consumer packages; area of principal display panel.

Rule 42. (1) The square inch area of the principal display panel:

(a) On a rectangular container, shall be the product of the height times the width of that 1 entire side which properly can be considered to be the principal display panel.

(b) On a cylindrical or nearly cylindrical container, shall be 40% of the product of the height of the container times the circumference.

(c) On any other shaped container, shall be 40% of the total surface of the container, unless the container presents an obvious principal display panel, for example, the top of a triangular or circular package of cheese or the top of a can of shoe polish, in which case the area shall consist of the entire surface.

(2) Determination of the principal display panel shall exclude the top, bottom, flanges at the top and bottom of a can and shoulder, neck and heel of a bottle and jar.

History: 1954 ACS 75, p. 14, Eff. May 22, 1973.

R 285.551.43 Consumer packages; numbers and letters.

Rule 43. (1) A declaration of quantity shall be in a style of type or lettering as to be boldly, clearly and conspicuously presented with respect to other type, lettering or graphic material on the package except that a declaration of net quantity blown, formed or molded on a glass or plastic surface is permissible when all label information is blown, formed or molded on the surface. Any required information that is in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

(2) The height of a letter or number in the quantity declaration shall be not less than that shown in table 1 with respect to the square inch area of the panel. A number or letter shall be not more than 3 times as high as it is wide. The height of each number of a common fraction shall meet ⅛ the minimum height standards.

TABLE 1

Minimum Height of Numbers and Letters

Square Inch Area of Principal Display Panel	Minimum Height of Numbers & Letters	Minimum Height: Label Information Blown, Formed, or Molded on Surface of Container
5 square inches and less	1/16 inch	⅛ inch
Greater than 5 square inches and not greater than 25 square inches	⅛ inch	3/16 inch
Greater than 25 square inches and not greater than 100 square inches	3/16 inch	¼ inch
Greater than 100 square inches and not greater than 400 square inches	¼ inch	5/16 inch
Greater than 400 square inches	½ inch	9/16 inch

History: 1954 ACS 75, p. 14, Eff. May 22, 1973.

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R 285.551.44 Nonconsumer package; English language; legibility.

Rule 44. All information required to appear on a nonconsumer package shall be clearly stated in the English language. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

History: 1954 ACS 75, p. 15, Eff. May 22, 1973.

PART 4. SPECIFIC CONSUMER COMMODITIES AND PACKAGES

R 285.551.51 Declarations on packages, cartons, and containers.

Rule 51. (1) For an individual package affixed to a display card or for a commodity and display card together comprising a package, the type size of the quantity declaration is governed by the dimensions of the display card.

(2) When a carton containing 12 eggs has been designed so as to permit division in half by the retail purchaser, the required quantity declaration shall be so positioned as to have its context destroyed when the carton is divided.

(3) The declaration of quantity on an aerosol container and on a similar pressurized package shall disclose the net quantity of the commodity, including propellant, in terms of weight, that will be expelled when the instructions for use as shown on the container are followed.

(4) In the case of a cylindrical or nearly cylindrical container, information required to appear on the principal display panel shall appear within that 40% of the circumference which is most likely to be displayed, presented, shown or examined under customary conditions of display for retail sale.

(5) Nothing in these rules shall be deemed to preclude the continued use of reusable (returnable) glass containers. Glass containers ordered after the effective date of these rules shall conform to all requirements of these rules.

History: 1954 ACS 75, p. 15, Eff. May 22, 1973.

R 285.551.52 Declarations on multi-unit package; combination package; variety package.

Rule 52. (1) A package containing more than 1 individual commodity in package form of the same commodity shall bear on the outside of the package a declaration of:

(a) The number of individual units.

(b) The quantity of each individual unit.

(c) The total quantity of the contents of the multi-unit package.

(2) Any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity declaration.

(3) A package containing individual units of dissimilar commodities, for example, an antiquing kit, shall bear on the label of the package a quantity declaration for each unit.

(4) A package containing individual units of reasonably similar commodities; for example, a seasonal gift package or a variety package of cereal shall bear on the label of the package a declaration of the total quantity of commodity in the package.

History: 1954 ACS 75, p. 15, Eff. May 22, 1973.

R 285.551.53 Declarations of quantity on container type commodities.

Rule 53. A declaration of quantity on a container type commodity shall be expressed as follows: Commodities designed and sold at retail to be used as containers for other materials or objects, such as bags, cups, boxes and pans, shall be labeled with a declaration of net quantity as follows:

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(i) For a bag type commodity, in terms of count followed by linear dimensions of the bag, whether packaged in a perforated roll or otherwise. When the unit bag is characterized by 2 dimensions because of the absence of a gusset, the width and length will be expressed in inches, except that a dimension of 2 feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot, for example, "25 bags, 17 in x 20 in" or "100 bags, 20 in x 2 ft 6 in" or "50 bags, 20 in x 2½ ft." When the unit bag is gusseted, the dimensions will be expressed as width, depth and length, in terms of inches, except that any dimension of 2 feet or more shall be expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot, for example, "25 bags, 17 in x 4 in x 20 in" or "100 bags, 20 in x 12 in x 2½ ft."

(ii) For any other square, oblong, rectangular or similarly shaped container, in terms of count followed by length, width and depth, except depth need not be listed when less than 2 inches, for example, "2 cake pans, 8 in x 8 in" or "roasting pan, 12 in x 8 in x 3 in."

(iii) For a circular or other generally round shaped container, in terms of count followed by diameter and depth, except depth need not be listed when less than 2 inches, for example, "4 pie pans, 8 in diameter" or "2 cake pans, 8 in diameter x 4 in."

History: 1954 ACS 75, p. 15, Eff. May 22, 1973.

R 285.551.54 Declaration of function and quantity.

Rule 54. (1) When the functional use of a container is related by label references, in standard terms of measure, to the capability of holding a specific quantity of substance or class of substances, the references shall be a part of the net quantity statement and shall specify capacity as follows:

(a) For a container intended to be used for liquids, semisolids, viscous materials or mixtures of solids and liquids, the expressed capacity of liquid measure shall be stated in terms of the largest whole unit, with a remainder in terms of the common or decimal fraction of that unit, for example, "freezer boxes—4 boxes, 1-qt capacity, 5 in x 4 in x 3 in."

(b) For a container intended to be used for solids, the expressed capacity of dry measure shall be stated in terms of the largest whole unit with a remainder in terms of the common or decimal fraction of that unit, for example, "leaf bags—8 bags, 6-bushel capacity, 3 ft x 5 ft."

(c) For a container used as a liner for another more permanent container, the expressed capacity shall be stated in the same terms normally used to express the capacity of the more permanent container, for example, "garbage can liners—10 liners, 2 ft x 6 in x 3 ft 9 in, fits up to 30-gallon cans."

(2) Notwithstanding the requirements of this rule, the net quantity statement for containers such as cups shall be listed in terms of count and liquid capacity per unit, for example, "24 cups, 6 fl oz capacity." For purposes of this subrule, the use of the terms "capacity," "diameter" and "fluid" is optional.

History: 1954 ACS 75, p. 16, Eff. May 22, 1973.

R 285.551.56 Delivery tickets to accompany truckloads of commodities.

Rule 56. (1) A delivery of any produce, coal, coke, sand, gravel or any other commodity, product, or merchandise sold in bulk form by weight, measure, or count in truckload or partial truckload quantity shall be accompanied by duplicate delivery tickets, which shall clearly state, in ink or other indelible substance, the name and address of the vendor, the name and address of the purchaser, identity of merchandise being delivered and the net quantity of the

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delivery. The gross weight and tare weight from which the net weight is computed each shall be expressed in pounds. One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery.

(2) This rule does not apply to a delivery where the weight, measure or count is to be determined at the time of delivery. The person determining the weight, measure or count shall furnish to the vendor or to the purchaser a delivery ticket containing the information required by this rule.

(3) This rule does not apply when weight, measure, or count is determined by a governmental unit or agency.

History: 1954 ACS 75, p. 16, Eff. May 22, 1973.

R 285.551.58 Roofing and roofing materials.

Rule 58. Roofing and roofing materials shall be sold either by the "square" or by "square foot." "Square" means the quantity of roofing or roofing material that, when applied according to directions or instructions of the manufacturer, will cover an area of 100 square feet exclusive of side laps or side joints. In case of roofing or roofing material of corrugated design, the side lap or side joint shall be 1 full corrugation. "Square foot" means the quantity of roofing or roofing material that, when applied according to the directions or instructions of the manufacturer, will cover 1 square foot exclusive of side laps or side joints.

History: 1954 ACS 75, p. 17, Eff. May 22, 1973.

PART 5. EXEMPTIONS AND VARIATIONS

R 285.551.61 Wearing apparel.

Rule 61. Wearing apparel, including nontextile apparel and accessories such as leather goods and footwear sold as single-unit items, or if normally sold in pairs, such as hosiery, gloves, and shoes sold as single-unit pairs, are exempt from the requirement for a net quantity statement by count, as required by R 285.551.17.

History: 1954 ACS 75, p. 17, Eff. May 22, 1973.

R 285.551.62 Textiles.

Rule 62. (1) Bedsheets, blankets, pillowcases, comforters, quilts, bedspreads, mattress covers and pads, afghans, throws, dresser and other furniture scarfs, tablecloths and napkins, flags, curtains, drapes, dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, carpets and rugs, pot holders, fixture and appliance covers, nonrectangular diapers, slip covers and other similar items are exempt from the requirement of R 285.551.17, except as provided in this rule.

(2) The quantity statement for a fitted sheet and mattress cover shall state, in inches, the length and width of the mattress for which the item is designed, such as "twin," "double" or "king," for example, "twin fitted sheet for 39 x 75 in mattress."

(3) The quantity statement for a flat sheet shall state the size designation of the mattress for which the sheet is designed, such as "twin," "double" or "king." The quantity statement also shall state, in inches, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in inches, of the length and width of the sheet before hemming, for example, "double flat sheet for 54 x 75 in mattress (81 x 104 in before hemming)."

(4) The quantity statement for a pillowcase shall state the size designation of the pillow for which the pillowcase is designed, such as "youth," "standard" and "queen." The quantity statement also shall state, in inches, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a

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statement, in inches, of the length and width of the pillowcase before hemming, for example, "standard pillowcase for 20 x 26 in pillow (42 x 36 in before hemming)."

(5) The quantity statement for a blanket, comforter, quilt, bedspread, mattress pad, afghan and throw shall state in inches, the length and width of the finished item. The quantity statement also may state the length of any ornamentation and the size designation of the mattress for which the item is designed, such as "twin," "double" or "king."

(6) The quantity statement for a tablecloth and napkin shall state, in inches, the length and width of the finished item. The quantity statement also may state parenthetically, in inches, the length and width of the item before hemming and properly identified as such.

(7) The quantity statement for a curtain, drape, flag and furniture scarf shall state, in inches, the length and width of the finished item. The quantity statement also may state, in inches, the length of any ornamentation, in parentheses.

(8) The quantity statement for a carpet and rug shall state, in feet, with any remainder in common or decimal fractions of the foot or in inches, the length and width of the item. The quantity statement also may state, in inches, the length of any ornamentation, in parentheses.

(9) The quantity statement for a woven dish towel, dish cloth, towel, face cloth, utility cloth or bath mat and the like shall state, in inches, the length and width of the item. The quantity statement for such an item, when knitted, need not state the dimensions.

(10) The quantity statement for textile products such as a pot holder, fixture and appliance cover, nonrectangular diaper or slip cover and the like, shall be stated in terms of count and may include size designations and dimensions.

(11) The quantity statement for other than rectangular textile products identified in subrules (1) to (9) shall state the geometric shape of the product and the dimensions which are customarily used in describing such geometric shape, for example, "oval tablecloth 54 x 42 in" representing the maximum length and width in this case.

(12) The quantity statement for a package of remnants of textile products of assorted sizes, when sold by count, shall be accompanied by the term "irregular dimensions" and the minimum size of such remnants.

(13) The following variations from declared dimensions for textiles are permitted:

(a) For an item with no declared dimension less than 24 inches, a minus variation greater than 3% of the declared dimension and a plus variation greater than 6% of the declared dimension are considered unreasonable.

(b) For an item with a declared dimension less than 24 inches, a minus variation greater than 6% of the declared dimension and a plus variation greater than 12% of the declared dimension are considered unreasonable.

History: 1954 ACS 75, p. 17, Eff. May 22, 1973.

R 285.551.63 Sewing threads, handicraft threads, and yarns.

Rule 63. Sewing and handicraft threads, yarns and industrial threads, including cordage and twine, are exempt from the length measure requirements of subdivision (a) of R 285.551.22. However, the net quantity statement:

(a) For sewing and handicraft thread shall be expressed in terms of yards.

(b) For yarn shall be expressed in terms of weight.

(c) For industrial thread, including cordage and twine, shall be marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, except that ready-wound bobbins which are not sold separately shall

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not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net yards of thread on each bobbin.

History: 1954 ACS 75, p. 18, Eff. May 22, 1973.

R 285.551.64 Requirements for exempted packages.

Rule 64. (1) When a consumer commodity or package of consumer commodity is exempted from the requirements of dual quantity declaration, the net quantity declaration required to appear on the package shall be in terms of the largest whole unit, except as provided by R 285.551.52(1)(c).

(2) A random package bearing a label conspicuously declaring the net weight, the price per pound and the total price is exempt from the type size, dual declaration, placement and free area requirements of these rules.

(3) In case of a random package packed at one place for subsequent sale at another place, the price per unit of weight and the total selling price need not appear on the package provided the price per unit of weight and the total selling price appear on the package at the time it is offered or exposed for sale at retail.

(4) The exemptions provided in subrules (2) and (3) shall apply to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type equipment as random packages.

History: 1954 ACS 75, p. 18, Eff. May 22, 1973.

R 285.551.65 Small confections and foods.

Rule 65. (1) Individually wrapped pieces of candy and other confectionery of less than ½ ounce net weight per individual piece are exempt from the labeling requirements of these rules when:

(a) The container in which the confectionery is shipped complies with labeling requirements of these rules.

(b) The confectionery items are sold in bags or boxes and the bags or boxes bear a declaration that meets the requirements of these rules.

(2) Individual serving size packages of food containing less than ½ ounce or less than ½ fluid ounce for use in restaurants, institutions, and passenger carriers and not intended for sale at retail are exempt from the declaration of net quantity of contents required by these rules.

History: 1954 ACS 75, p. 18, Eff. May 22, 1973.

R 285.551.66 Tobacco.

Rule 66. (1) An individual cut, plug or twist of tobacco or individual cigar that is shipped or delivered in a container that complies with the labeling requirements of these rules is exempt from such labeling requirements.

(2) A carton of cigarettes or small cigars containing 10 individual packages of 20, labeled in accordance with requirements of these rules, is exempt from location requirements in R 285.551.41(2), height requirements in R 285.551.43(2), and multi-unit package requirements in R 285.551.52, but the carton shall bear a declaration of the net quantity of the commodity in the package.

History: 1954 ACS 75, p. 19, Eff. May 22, 1973.

R 285.551.67 Packages labeled to federal law specifications.

Rule 67. A package of meat or meat products, poultry or poultry products, tobacco or tobacco products, insecticides, fungicides, rodenticides, alcoholic beverages or seeds is exempt from the requirements of dual quantity declarations

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of weight, fluid measure, length and area in R 285.551.23; the location requirements in R 285.551.41; and height requirements in R 285.551.43, when quantity labeling requirements for these products are specified in federal law, so as to follow reasonably sound principles of providing consumer information.

History: 1954 ACS 75, p. 19, Eff. May 22, 1973.

R 285.551.68 Dairy products.

Rule 68. Fluid dairy products, ice cream and frozen desserts:

(a) When packaged in ½ liquid pint and ½ gallon containers, are exempt from the requirements for stating net contents of 8 fluid ounces and 64 fluid ounces, which may be expressed as ½ pint and ½ gallon, respectively.

(b) When packaged in 1 liquid pint, 1 liquid quart and ½ gallon containers, are exempt from the dual net contents declaration requirements of R 285.551.23.

(c) When measured by and packaged in glass or plastic containers of ½ liquid pint, 1 liquid pint, 1 liquid quart, ½ gallon and 1 gallon measure containers as defined in measure container code of national bureau of standards handbook 44 are exempt from the requirement of R 285.551.41 that the declaration of net contents be located in the bottom 30% of the principal display panel. National bureau of standards handbook 44 is a United States department of commerce publication adopted by section 8 of Act No. 283 of the Public Acts of 1964, as amended, being §290.608 of the Michigan Compiled Laws. This publication is for sale by Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (SD Catalog No. C13.11:44/4), price $2.00.

(d) Milk or milk products measured by and packaged in glass or plastic containers of ½ liquid pint, 1 liquid pint, 1 liquid quart, ½ gallon and 1 gallon capacities are exempt from the location requirement in R 285.551.41(2) when other required label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown, formed, molded, or permanently applied on or above the shoulder of the container.

History: 1954 ACS 75, p. 19, Eff. May 22, 1973.

R 285.551.69 Fruit juice beverages; imitations; drinking water.

Rule 69. Single strength and less than single strength fruit juice beverages, imitations thereof and drinking water:

(a) Packaged in glass, plastic or fluid milk-type paper containers of 8 or 64 fluid ounce capacity, are exempt from the liquid measurement requirement in R 285.551.18 to the extent that the net contents may be expressed as ½ pint and ½ gallon, respectively.

(b) Packaged in glass, plastic or fluid milk-type paper containers of 1 pint, 1 quart and ½ gallon capacities are exempt from the dual net contents declaration requirements in R 285.551.23.

(c) Packaged in glass or plastic containers of ½ pint, 1 pint, 1 quart, ½ gallon and 1 gallon capacities are exempt from the location requirement in R 285.551.41(2) when other required label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown, formed, molded or permanently applied on or above the shoulder of the container.

History: 1954 ACS 75, p. 19, Eff. May 22, 1973.

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R 285.551.70 Soft drink bottles and multi-unit packages.

Rule 70. (1) Bottles of soft drinks are exempt from the placement requirements for the declaration of:

(a) Identity, when the declaration appears on the bottle closure.

(b) Quantity, when the declaration is blown, formed or molded on or above the shoulder of the container and when all other information required by these rules appears only on the bottle closure.

(2) Multi-unit packages of soft drinks are exempt from the requirement for a declaration of:

(a) Responsibility (names and addresses) when the declaration appears on the individual units and is not obscured by the multi-unit packaging, or when the outside container bears a statement to the effect that such declaration will be found on the individual units inside.

(b) Identity, when the declaration appears on the individual units and is not obscured by the multi-unit packaging.

History: 1954 ACS 75, p. 19, Eff. May 22, 1973.

R 285.551.71 Butter and margarine.

Rule 71. (1) Butter packaged in 4 ounce, 8 ounce and 1 pound units with continuous label copy wrapping is exempt from the statement of identity requirement in R 285.551.11(2) and the net quantity requirement in R 285.551.41(5) that these declarations appear generally parallel to the base of the package.

(2) Butter packaged in 8 ounce and 1 pound units is exempt from the location requirement in R 285.551.41(2).

(3) Butter packaged in 1 pound units is exempt from the dual quantity declaration requirement in R 285.551.23(1).

(4) Margarine in 1 pound rectangular packages, except for packages containing whipped or soft margarine or packages containing more than 4 sticks, is exempt from net quantity location requirement in R 285.551.41(2) and dual quantity declaration in R 285.551.23(1).

History: 1954 ACS 75, p. 20, Eff. May 22, 1973.

R 285.551.72 Eggs.

Rule 72. A carton containing 12 eggs is exempt from location of net quantity declaration requirement in R 285.551.41(2). When an egg carton is designed to permit division in half, each half is exempt from labeling requirements of these rules if the undivided carton conforms to all such labeling requirements.

History: 1954 ACS 75, p. 20, Eff. May 22, 1973.

R 285.551.73 Flour.

Rule 73. (1) Wheat flour packaged in units of 2, 5, 10, 25, 50, or 100 pounds is exempt from requirements of the location of the net quantity declaration in R 285.551.41(2). Wheat flour packaged in units of 2 pounds is exempt from dual quantity declaration requirement in R 285.551.23.

(2) Corn flour packaged in conventional 5, 10, 25, 50, or 100 pound bags is exempt from the requirements of the location of net quantity declaration in R 285.551.41(2).

History: 1954 ACS 75, p. 20, Eff. May 22, 1973.

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R 285.551.74 Small, decorative, and combination packages.

Rule 74. (1) The declaration of quantity need not appear in the bottom 30% of a principal display panel of 5 square inches or less if that declaration satisfies the other requirements of these rules.

(2) The principal display panel of a decorative cosmetic container of the "cartridge," "pill box," "compact" or "pencil" variety and of a decorative cosmetic container with a capacity of ¼ ounce or less, may be a tear-away tag or tape affixed to the decorative container and bearing the mandatory label information as required by these rules.

(3) Combination packages are exempt from the location of the net quantity declaration requirement in R 285.551.41(2), free area requirement in R 285.551.41(4) and the height requirement in R 285.551.43(2).

History: 1954 ACS 75, p. 20, Eff. May 22, 1973.

R 285.551.75 Drugs.

Rule 75. A prescription and an insulin-containing drug subject to the federal food, drug, and cosmetic act are exempt from this regulation.

History: 1954 ACS 75, p. 20, Eff. May 22, 1973.

R 285.551.76 Camera film.

Rule 76. Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this regulation which specify how measurement of commodities should be expressed, in R 285.551.18(d); however:

(a) The net quantity of contents on a package of movie film and bulk still film shall be expressed in terms of the number of lineal feet of usable film contained therein.

(b) The net quantity of contents on packages of still film shall be expressed in terms of the number of exposures the contents will provide. The declaration may also include the length and width measurements of the individual exposures expressed in millimeters or inches, for example, "36 exposures, 36 x 24 mm" or "12 exposures, 2¼ x 2¼ in."

History: 1954 ACS 75, p. 20, Eff. May 22, 1973.

R 285.551.77 Paints.

Rule 77. Paint, varnish, lacquer, thinner, remover, oil, resin, and solvent are exempt from the dual quantity declaration requirement in R 285.551.23(2) when packed in 1 liquid pint and 1 liquid quart units.

History: 1954 ACS 75, p. 21, Eff. May 22, 1973.

R 285.551.78 Motor oils and antifreeze.

Rule 78. (1) Motor oil, when packed in 1 liquid quart units, is exempt from the dual quantity declaration requirement in R 285.551.23(2). Motor oil in 1 liquid quart, 1 gallon, 1¼ gallon, 2 gallon and 2¼ gallon units, bearing the principal display panel on the body of the container, is exempt from the identity requirement in R 285.551.11(1) to the extent that the SAE grade is required to appear on the principal display panel if the SAE grade appears on the can lid and is expressed in letters and numerals in type size of at least ¼ inch.

(2) Antifreeze is exempt from the dual quantity declaration requirement in R 285.551.23(2) when packed in 1 liquid quart units, in metal and plastic containers.

History: 1954 ACS 75, p. 21, Eff. May 22, 1973.

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R 285.551.79 Textiles.

Rule 79. Variety packages of textiles which are required by R 285.551.17 to provide a combination declaration stating the quantity of each individual unit are exempt from the location of the net quantity declaration requirement in R 285.551.41(2), the free area requirement in R 285.551.41(4) and the height requirement in R 285.551.43(2).

History: 1954 ACS 75, p. 21, Eff. May 22, 1973.

R 285.551.81 Exemption from sealing or marking of devices.

Rule 81. The following weights and measures are exempt from the sealing and marking requirements of section 14 of Act No. 283 of the Public Acts of 1964, as amended, being §290.614 of the Michigan Compiled Laws:

(a) Measure containers.
(b) Milk bottles.
(c) Lubricating-oil bottles.
(d) Berry baskets and boxes.

History: 1954 ACS 75, p. 21, Eff. May 22, 1973.

R 285.551.83 Packaging variations.

Rule 83. (1) A variation from the declared net weight, measure, or count is permitted when caused by unavoidable deviations in weighing, measuring or counting the contents of individual packages that occur in good packaging practice. A variation is not permitted to the extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity, that is kept, offered, or exposed for sale or sold, is below the quantity stated; and an unreasonable shortage in any package is not permitted, even though overages in other packages in the same shipment, delivery or lot compensate for the shortage. A variation above the declared quantity shall not be unreasonably large.

(2) A variation from the declared weight or measure is permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce. "Introduced into intrastate commerce" means the time and the place at which the first sale and delivery of a package is made in this state:

(a) Directly to the purchaser or to his agent.

(b) To a common carrier for shipment to the purchaser. So long as a shipment, delivery or lot of packages of a particular commodity remains in possession or under control of the packager or the person who introduces the package into intrastate commerce, exposure variations are not permitted.

(3) The magnitude of a variation permitted under this rule, in case of a shipment, delivery or lot, shall be determined by the facts in the individual case.

History: 1954 ACS 75, p. 21, Eff. May 22, 1973.

REGULATION NO. 552. UNCLASSIFIED POTATOES

(By authority conferred on the commission of agriculture by section 8 of Act No. 220 of the Public Acts of 1929, as amended, section 1 of Act No. 13 of the Public Acts of 1921, as amended, and section 178 of Act No. 380 of the Public Acts of 1965, being §§290.158, 285.1, and 16.278 of the Michigan Compiled Laws)

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R 285.552.1 Definitions.

Rule 1. As used in these rules:

(a) "Soft rot or wet breakdown" means a soft, mushy or leaky condition of the tissue of potatoes such as slimy soft rot, leak or wet breakdown following freezing injury.

(b) "Seriously damaged" means that the removal of sunburn or greening would cause a loss of more than 10% of the total weight of the potato.

History: 1954 ACS 77, p. 11, Eff. Dec. 6, 1973.

R 285.552.2 Labeling; containers; standards.

Rule 2. A person, firm, or corporation packing ungraded potatoes for sale for table use shall package them as follows:

(a) A container shall be labeled "unclassified."

(b) The word "unclassified" shall be in vivid red (NBS color no. 11) letters on a brilliant yellow (NBS color no. 83) background on the top ⅓ of the bag. The national bureau of standards centroid color charts, standard sample no. 2106, will be used for color reference. Color charts are available for viewing at Michigan state university. The lettering shall be in the English language, conspicuous as to style of letters and in contrast to color of background. The yellow background shall extend beyond the lettering, top, bottom, and sides, to a point ½ the size of the letters in the word "unclassified."

(c) The word "unclassified" shall be as large as the largest lettered word on the package and in no case less than 1 inch in height.

(d) Unclassified potatoes shall be packaged in brown paper or clear plastic bags with only the information specified by Act No. 220 of the Public Acts of 1929 for unclassified potatoes appearing on the bag.

(e) A lot designated as unclassified shall contain not more than 2%, by weight, of the potatoes affected by soft rot or wet breakdown.

(f) A lot designated as unclassified shall contain not more than 10%, by weight, of potatoes which are seriously damaged by sunburn or greening.

History: 1954 ACS 77, p. 11, Eff. Dec. 6, 1973.

R 285.552.3 Exemption.

Rule 3. These rules do not apply to a grower or his employees in the sale of potatoes grown by himself when made direct to the consumer.

History: 1954 ACS 77, p. 12, Eff. Dec. 6, 1973.

REGULATION NO. 553. FOOD ESTABLISHMENTS

(By authority conferred on the department of agriculture by section 23 of Act No. 39 of the Public Acts of 1968, being §289.723 of the Michigan Compiled Laws)

R 285.553.1 Definitions.

Rule 1. (1) "Act" means Act No. 39 of the Public Acts of 1968, as amended, being §289.701 et seq. of the Michigan Compiled Laws. Terms defined in the act have the same meanings when used in these rules.

(2) "Establishment" means a place where food is manufactured, handled, stored, prepared, offered for sale, or sold. The term includes bakeries, bottling plants, seasonal and municipal fruit and vegetable markets, grain elevators, farm crop storages, feed mills, frozen food plants, grocery stores, supermarkets, food warehouses, gas stations, and canning and preserving plants.

History: 1954 ACS 85, p. 6, Eff. Sept. 25, 1975.

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R 285.553.2 Exemptions.

Rule 2. These rules do not apply to a roadside stand or a stand at or tributary to fairgrounds, circus grounds, carnivals, parks, and resorts when operated for less than 2 weeks during any 12-month period or to a food service establishment subject to Act No. 269 of the Public Acts of 1968, being §§325.801 to 325.813 of the Michigan Compiled Laws.

History: 1954 ACS 85, p. 6, Eff. Sept. 25, 1975.

R 285.553.3 Establishment grounds.

Rule 3. (1) The grounds about an establishment under the control of the operator shall be free from conditions which may result in the contamination of food, including, but not limited to, the following:

(a) Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the establishment buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests.

(b) Excessively dusty roads, yards, or parking lots that may constitute a source of contamination in areas where food is exposed.

(c) Inadequately drained areas that may contribute contamination to food products through seepage or foot-borne filth and by providing a breeding place for insects or micro-organisms.

(2) If the establishment grounds are bordered by grounds not under the operator's control and are of the kind described in subrule (1), the establishment shall exercise care in the plant by inspection, extermination, or other means to effect exclusion of pests, dirt, and other filth that may be a source of food contamination.

History: 1954 ACS 85, p. 6, Eff. Sept. 25, 1975.

R 285.553.4 Establishment construction and design.

Rule 4. Establishment building and structures shall be suitable in size, construction, design, and location of work areas to facilitate maintenance and sanitary operations for storage and food processing. The establishment and facilities shall provide:

(a) Sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations and production of safe food. Floors, walls, ceilings, bins, elevators, conveyors, and boots in the establishment shall be of such construction as to be cleanable and shall be kept clean and in good repair. Fixtures, ducts, and pipes shall not be suspended over working areas so that drip or condensate may contaminate foods, raw materials, or food contact surfaces. Aisles or working spaces between equipment, and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food contact surfaces with clothing or personal contact.

(b) Separation by partition, location, or other effective means for those operations, economic poison storage areas, or other material storage areas, which operations, economic poisons, or materials may cause contamination of food products with undesirable micro-organisms, chemicals, filth, or other extraneous material.

(c) Adequate lighting to all areas where food or food ingredients are examined, processed, or stored, and to hand washing areas, dressing, and locker rooms, toilet rooms, and where equipment and utensils are cleaned. Light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation

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shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

(d) Adequate ventilation or control equipment to minimize odors and noxious fumes, dust or vapors, including steam, in areas where they may contaminate food. Ventilation or control equipment shall not create conditions that may contribute to food contamination by airborne contaminants.

(e) Where necessary, effective screening or other protection against birds, animals, and vermin, including, but not limited to, insects and rodents.

History: 1954 ACS 85, p. 6, Eff. Sept. 25, 1975.

R 285.553.5 Equipment and controls.

Rule 5. (1) All establishment equipment and utensils shall be suitable for their intended use, so designed and of such material and workmanship as to be cleanable and properly maintained.

(2) The design, construction, and use of equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, rodents, birds or any other contaminants. All equipment shall be so installed as to be easily cleanable and maintained and located within the production area, thereby eliminating daily product cross contamination and facilitating the cleaning of the equipment and all adjacent spaces.

History: 1954 ACS 85, p. 7, Eff. Sept. 25, 1975.

R 285.553.6 Sanitary facilities and controls.

Rule 6. An establishment shall be equipped with adequate sanitary facilities and accommodations including, but not limited to, those prescribed in R 285.553.7 to R 285.553.12.

History: 1954 ACS 85, p. 7, Eff. Sept. 25, 1975.

R 285.553.7 Water supply.

Rule 7. The water supply shall be sufficient for the operations intended and shall be derived from an approved source. Any water or ice that contacts foods or food contact surfaces shall be safe and of adequate sanitary quality. Hot and cold running water at a suitable temperature and under pressure of at least 30 psi as needed shall be provided in all areas where the processing of food, the cleaning of equipment, utensils, or containers, or employee sanitary facilities require.

History: 1954 ACS 85, p. 7, Eff. Sept. 25, 1975.

R 285.553.8 Sewage disposal.

Rule 8. All sewage and liquid waste shall be disposed of in a public or municipal sewerage system, or, in the absence thereof, in an approved septic tank system or by some other acceptable method which does not create a nuisance, insanitary condition, or public health hazard.

History: 1954 ACS 85, p. 7, Eff. Sept. 25, 1975.

R 285.553.9 Plumbing.

Rule 9. Plumbing shall be of adequate size and design and adequately installed and maintained to:

(a) Carry sufficient quantities of water to required locations throughout the establishment.

(b) Properly convey sewage and liquid waste from the establishment.

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(c) Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils, or create an insanitary condition.

(d) Provide adequate floor drainage in all areas where floors are subject to flooding type cleaning or where normal operations release or discharge water or other liquid waste on the floors. The food preparation area shall be provided with adequate floor drainings to accomplish in-place cleanup and sanitizing of food handling equipment.

History: 1954 ACS 85, p. 7, Eff. Sept. 25, 1975.

R 285.553.10 Toilet facilities and rest rooms.

Rule 10. (1) An establishment shall provide its employees with adequate, completely enclosed toilet rooms and conveniently located associated hand washing facilities. Toilet rooms shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing and shall not open directly into areas where food is exposed to airborne contamination. All toilet facilities shall be power vented to outside air. Signs shall be posted directing employees to wash their hands with soap or detergents after using toilet.

(2) Welfare areas provided for storage of street clothing and lunch areas for employees' use shall be located separate from any processing procedural areas to inhibit possible cross-contamination.

History: 1954 ACS 85, p. 7, Eff. Sept. 25, 1975.

R 285.553.11 Hand washing facilities.

Rule 11. Adequate and convenient facilities for hand washing shall be provided. The knee pedal type operation or similar devices are recommended and, where appropriate, hand sanitizing shall be provided at each location in the establishment where good sanitary practices require employees to wash, sanitize, and dry their hands. The facilities shall be furnished with hot and cold or tempered running water, effective hand cleaning and sanitizing preparations, disposable sanitary towel service or suitable drying devices, and easily cleanable waste receptacles.

History: 1954 ACS 85, p. 8, Eff. Sept. 25, 1975.

R 285.553.12 Rubbish and offal disposal.

Rule 12. Rubbish and offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food contact surfaces, ground surfaces, and water supplies.

History: 1954 ACS 85, p. 8, Eff. Sept. 25, 1975.

R 285.553.13 General maintenance.

Rule 13. Buildings, fixtures, and other physical facilities of the establishment shall be kept in good repair and shall be maintained in a sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food contact surfaces. Detergents, sanitizers, and other supplies used in cleaning and sanitizing procedures shall be free of significant microbiological contamination, and shall be safe and effective for their intended use. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for establishment and equipment maintenance and operation, or in manufacturing or processing operations shall be used

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or stored in an establishment. When these materials are offered for sale, they shall be properly labeled and displayed completely separate and apart from any food or food container.

History: 1954 ACS 85, p. 8, Eff. Sept. 25, 1975.

R 285.553.14 Animals, birds, and vermin control.

Rule 14. Live birds or animals shall not be permitted in an establishment, except that a guide dog accompanying a blind person may be permitted in selling areas, and birds and animals may be permitted in the same building if caged or otherwise restrained and located a safe distance from all food operations as to eliminate the possibility of contamination by any means. Persons employed in the food area of an establishment shall not care for or handle any such birds or animals while on duty. Effective measures shall be taken to exclude pests from the processing and storage areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin, including, but not limited to, rodents and insects. The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues.

History: 1954 ACS 85, p. 8, Eff. Sept. 25, 1975.

R 285.553.15 Sanitation of equipment and utensils.

Rule 15. (1) All utensils and product contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonproduct contact surfaces of equipment used in the operation of food establishments shall be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single service articles, such as utensils intended for one-time use, paper cups, paper towels, et cetera, shall be stored in appropriate containers and handled, dispensed, used, and disposed of in a manner that prevents contamination of food or food contact surfaces. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product contact surfaces of equipment used in an establishment shall be cleaned and sanitized prior to use and following any interruption during which the utensils and contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, the contact surfaces shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that the facility, procedure, machine, or device routinely renders equipment and utensils clean and provides adequate sanitizing treatment.

(2) A returnable reuseable glass or plastic bottle shall be washed in a minimum of 3.5% caustic solution at 140 degrees Fahrenheit or above for at least 5 minutes, and shall be properly rinsed to avoid any product contamination before reuse.

(3) Containers made of any materials to be reused for food shall be so constructed as to be cleaned easily and sanitized properly.

(4) New containers or nonreturnable containers shall be clean and free from any foreign material.

History: 1954 ACS 85, p. 8, Eff. Sept. 25, 1975.

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R 285.553.16 Storage and handling of cleaned portable equipment and utensils.

Rule 16. Cleaned and sanitized portable equipment and utensils with product contact surfaces shall be stored in such a location and manner that product contact surfaces are protected from splash, dust, and other contamination.

History: 1954 ACS 85, p. 9, Eff. Sept. 25, 1975.

R 285.553.17 Economic poisons and other hazardous substances.

Rule 17. Economic poisons and other hazardous substances and operations which incorporate these materials, and the products so treated, shall be separated by partition, location, or other effective means so as to eliminate the possibility of contamination of food products.

History: 1954 ACS 85, p. 9, Eff. Sept. 25, 1975.

R 285.553.18 Sanitation of operations.

Rule 18. (1) All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing, and food storing areas shall be conducted in accordance with good sanitation principles. Overall sanitation of an establishment shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions shall be taken to assure that production procedures do not contribute contamination, such as filth, harmful chemicals, undesirable micro-organisms, or any other objectionable material, to the processed product.

(2) Raw material and ingredients shall be inspected and segregated as necessary to assure that they are clean, wholesome, and fit for processing into human food, and stored under conditions that protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as necessary to remove soil or other contamination. Water used for washing, rinsing, or conveying of food products shall be of approved quality and shall not be reused for washing, rinsing, or conveying products in a manner that may result in contamination of food products.

(3) Containers and carriers of raw ingredients shall be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products.

(4) When ice is used in contact with food products, it shall be made from potable water and shall be used only if it has been manufactured in compliance with adequate standards and stored, transported, and handled in a sanitary manner.

(5) Food processing areas and equipment used for processing human food shall not be used to process animal feed or inedible products, unless there is no possibility of contamination of the human food.

(6) Processing equipment shall be maintained in a sanitary condition through frequent cleaning, including sanitization where necessary. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

History: 1954 ACS 85, p. 9, Eff. Sept. 25, 1975.

R 285.553.19 Protection from contamination.

Rule 19. All food processing, packaging, storage, and transporting of food shall be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial or other microbiological growth, toxin formation, or deterioration or contamination of the processed product, ingredients, or containers. This requires careful monitoring of such physical factors as time, temperature, humidity, pressure, and flow-rate, and such pro-

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cessing operations as freezing, dehydration, heat processing, and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of the processed products.

History: 1954 ACS 85, p. 9, Eff. Sept. 25, 1975.

R 285.553.20 Testing.

Rule 20. Chemical, microbiological, or extraneous material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that may have become contaminated shall be rejected or treated or processed to eliminate the contamination where this may be properly accomplished.

History: 1954 ACS 85, p. 10, Eff. Sept. 25, 1975.

R 285.553.21 Packaging.

Rule 21. Packaging processes and materials shall not transmit contaminants or objectionable substances to the products, shall conform to any applicable food additive regulation, and shall provide adequate protection from contamination.

History: 1954 ACS 85, p. 10, Eff. Sept. 25, 1975.

R 285.553.22 Identification codes.

Rule 22. Meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity shall be utilized to enable positive lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records shall be retained for a period of time that exceeds the shelf life of the product, except that they need not be retained more than 2 years.

History: 1954 ACS 85, p. 10, Eff. Sept. 25, 1975.

R 285.553.23 Handling and storage.

Rule 23. All food and drink shall be clean and wholesome, and shall be manufactured, handled, stored, prepared, transported, offered for sale, or sold so as to be safe for human consumption. Potentially hazardous food or drink shall be stored or refrigerated at a temperature of 40 degrees Fahrenheit or below, or 140 degrees Fahrenheit or above, except smoked fish. All cooked, partially cooked, baked, or fried foods shall be kept at 140 degrees Fahrenheit or above, or 40 degrees Fahrenheit or below, and may not be displayed unless such requirements are maintained, except those products which do not, under good commercial practices, require heating or refrigeration. "Potentially hazardous food and drink" means any perishable food or drink which consists of any ingredients capable of supporting rapid and progressive growth of infections or toxigenic microorganisms. All coolers, refrigerators, freezers, barbeques, holding units, and other storage facilities shall be kept clean and sanitary. A reliable thermometer shall be maintained in each of the foregoing units. Spoiled, tainted, or toxic food, drink, or materials, unsafe or unfit for human consumption, shall not be stored or displayed along with food or drink for human consumption. All nonacid or low-acid hermetically sealed foods shall have been processed in a commercial food processing establishment. Frozen foods shall be stored, kept, displayed, or held at a temperature not to exceed 0 degrees Fahrenheit.

History: 1954 ACS 85, p. 10, Eff. Sept. 25, 1975.

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R 285.553.24 Personnel disease control.

Rule 24. A person affected by a disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of microbiological contamination, shall not work in an establishment in any capacity in which there is a reasonable possibility of food or food ingredients becoming contaminated by the person, or of disease being transmitted by the person to other individuals.

History: 1954 ACS 85, p. 10, Eff. Sept. 25, 1975.

R 285.553.25 Personnel cleanliness.

Rule 25. All persons, while working in direct contact with food preparation or food ingredients, or surfaces coming into contact therewith, shall:

(a) Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty to the extent necessary to prevent contamination of food products.

(b) Wash their hands thoroughly, and sanitize if necessary to prevent contamination, in an adequate hand washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

(c) Remove from hands any jewelry that cannot be adequately sanitized and all insecure jewelry during periods where food is manipulated by hand.

(d) If gloves are used in food handling, maintain them in an intact, clean, and sanitary condition. Gloves shall be of an impermeable material, except where their usage would be inappropriate or incompatible with the work involved.

(e) Wear effective hair nets, headbands, or caps to constrain the hair properly.

(f) Not store clothing or other personal belongings, eat food or drink beverages, or use tobacco in any form in areas where food or food ingredients are exposed, or in areas used for washing equipment or utensils.

(g) Take any other necessary precautions to prevent contamination of foods with micro-organisms or foreign substances, including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicants.

History: 1954 ACS 85, p. 10, Eff. Sept. 25, 1975.

R 285.553.26 Rescission.

Rule 26. Regulation No. 533, being R 285.533 of the Michigan Administrative Code and appearing on pages 2817 to 2821 of the 1963 Annual Supplement to the Code, is rescinded.

History: 1954 ACS 85, p. 11, Eff. Sept. 25, 1975.

REGULATION NO. 554. LAST DAY OF SALE

(By authority conferred on the department of agriculture by section 23 of Act No. 39 of the Public Acts of 1968, as amended, being §289.723 of the Michigan Compiled Laws)

R 285.554.1 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 39 of the Public Acts of 1968, as amended, being §289.701 et seq. of the Michigan Compiled Laws.

(b) "Date" means the recommended last day of sale.

(c) "Perishable food" means any food in package form which the manufacturer, packer, or retailer, in conjunction with the department, determines as

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having a significant risk of spoilage, loss of value, or loss of palatability within 90 days of the date of packaging.

(d) "Prepackaged" means packaged prior to being displayed or offered for sale.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 93, p. 19, Eff. Sept. 23, 1977.

R 285.554.2 Exemptions.

Rule 2. (1) These rules do not apply to an individually packaged food item that is a component of a larger food item if the larger food item is identified with a date the same as or earlier than the date of that component.

(2) Perishable foods packaged under, and in compliance with, federal laws and regulations, if providing information equal to or greater than the information required by these rules, are exempt from the labeling requirements of these rules.

(3) Smoked fish under R 285.541.1 et seq. are exempt from these rules.

History: 1954 ACS 93, p. 19, Eff. Sept. 23, 1977.

R 285.554.3 Determination of date; factors; records; examination.

Rule 3. (1) A manufacturer, processor, packer, repacker, retailer, or other person who prepackages perishable food shall determine a date which allows a reasonable period after sale for consumption of the food without physical spoilage. This determination shall take into consideration the food quality and characteristics, packaging and other protective wrapping, coating or container, customary transportation and storage conditions, and usual retail storage and display conditions. The temperature and humidity of storage and display areas for perishable food, at all stages prior to retail sale, shall also be factors in determining the date.

(2) The determination of a reasonable period for consumption shall be based upon refrigeration temperatures of not more than 40 degrees Fahrenheit (4.4 degrees Celsius) or, if frozen, not more than 0 degrees Fahrenheit (-17.8 degrees Celsius), and upon other customary protective measures taken for that type of food after retail sale.

(3) A retailer who purchases prepackaged perishable food may, upon written agreement with the person prepackaging such food, determine, identify, and be responsible for the date placed on, or attached to, each package of such food.

(4) The person responsible for establishing the date for perishable food shall keep a record of the method of determination of that date. Such record shall be retained for not less than 6 months after the manufacturing period of the perishable food, and records shall be available during normal business hours for examination, upon request, by the state department of agriculture.

History: 1954 ACS 93, p. 19, Eff. Sept. 23, 1977.

R 285.554.4 Date designation and placement; exception.

Rule 4. (1) A person described in R 285.554.3(1) or (3) shall place on, or attach to, each package of regulated perishable food a date by the month and day. However, bakery products, with a shelf life of not more than 7 days, may be dated with the day of the week representing the last day of sale.

(2) The date may be displayed with or without explanatory terms. If explanatory terms are used, such terms shall be limited to 1 of the following: "Sell by _____," "Sell before _____," "Last date of sale _____," "Recommended last date of sale _____," or "Recommended sale date _____." Other meaningful terms may be used if specifically approved by the department.

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(3) The date shall be designated by the first 3 letters of the month, followed by a numeral indicating the calendar day, or shall be designated by the calendar month represented numerically, followed by a numeral designating the calendar day. Such designations shall be separated by a period, slash, dash, or spacing. For example, September 9 shall be expressed as "SEP.09" or "9.09"; "Sep./09" or "9/09"; "Sep.—09" or "9—09"; or "Sep. 09" or "9 09." When a numeral designating a day numbered less than 10 is used, the number shall include a zero as the first digit; for example, 01 or 03.

(4) The date may include the year following the day if such year is expressed as a 2 or 4 digit number, separated as described in subrule (3).

(5) The date shall be printed, stamped, embossed, perforated, or otherwise shown on the package, label on the package, or tag attached to the package in a manner that is easily readable, and separated from other information, graphics, or lettering so as to be clearly visible to a prospective purchaser. The date shall not be superimposed on other required information or obscured by other information, pricing, or graphics. Regardless of the type size used, the date shall be easily readable.

History: 1954 ACS 93, p. 20, Eff. Sept. 23, 1977.

R 285.554.5 Sale after date; advertisement.

Rule 5. (1) Perishable foods shall not be offered for sale after the date unless such food is advertised to a prospective purchaser in a conspicuous manner as being offered for sale after the recommended last day of sale. The placement of a sign, sticker, or tag used for such advertising is acceptable if it is easily readable and clearly identifies the perishable food as having passed the recommended last day of sale.

(2) The retail or final seller is responsible for the proper advertisement of perishable food sold after the date.

History: 1954 ACS 93, p. 20, Eff. Sept. 23, 1977.

REGULATION NO. 555. ITEM PRICING

(By authority conferred on the director of agriculture by section 2 of Act No. 449 of the Public Acts of 1976, being §445.352 of the Michigan Compiled Laws)

R 285.555.1 Definitions.

Rule 1. (1) "Act" means Act No. 449 of the Public Acts of 1976, being §445.351 et seq. of the Michigan Compiled Laws.

(2) "Brand" as used in section 3 of the act means a product or products specifically assigned a characteristic identification by a particular seller or manufacturer, such as a trademark.

(3) "Conspicuous place in the retail store" as used in section 3 of the act means a location in which the greatest customer traffic normally occurs.

(4) "Motor vehicle parts" as used in section 3 of the act means those components of motor vehicles necessary to meet specifications of the manufacturer, but does not include expendable additives necessary for its operation, such as motor oil, transmission fluid, and gasoline.

(5) "Pattern" as used in section 1 of the act means a specific form or model.

(6) "Style" as used in section 1 of the act means any of several characteristics which are similar in shape, use, variety, or type, or meet a common identification standard.

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(7) "Unpackaged food item" as used in section 3 of the act means any food item with or without a protective covering, which is not required to be labeled with a price prior to being offered for sale.

History: 1954 ACS 96, p. 65, Eff. Aug. 19, 1978.

R 285.555.2 Reduced price items.

Rule 2. (1) The retail sale of an item with a reduced total price, without the actual reduced price stamped upon or affixed to the item, is permitted if any of the following apply:

(a) The item is exempt under section 3(2) of Act No. 449 of the Public Acts of 1976.

(b) The item is part of 25 classes of items or individual items which are described in section 3(3), (4), and (5) of Act No. 449 of the Public Acts of 1976.

(c) The item is individually marked with the usual price, according to section 3(1) of Act No. 449 of the Public Acts of 1976, which is greater than the actual total price charged.

(2) The reduced price may be indicated by placards or other advertisements and the reduction of price may be expressed by percentage of reduction, total price reduction, or total price.

History: 1954 ACS 96, p. 66, Eff. Aug. 19, 1978.

PLANT INDUSTRY DIVISION

REGULATION NO. 600. CHERRY PESTS

(By authority of Act No. 86 of the Public Acts of 1929, being §286.81 et seq. of the Michigan Compiled Laws)

R 285.600.1 Protection of cherry industry; control of cherry fruit flies and other cherry pests.

Rule 1. (1) The owner or person having charge of cherry trees or cherry orchards shall immediately following the emergence of the cherry fly in the locality in which his trees or orchards are located, cause the same to be sprayed according to the recommendations set forth in the most recent issue of the Michigan state college spraying calendar being extension bulletin no. 154 revised.

(2) When cherry trees are found to be infested with cherry fruit flies the property owner or his authorized agent must without delay proceed to control the infestation by 1 of the following methods:

(a) Pick the fruit from the infested trees and completely destroy same by burning in the presence of an authorized employee of the department.

(b) Pick the fruit and bury same 2 feet below the surface of the ground after covering with quick lime in the presence of an authorized employee of this department.

(c) Thoroughly spray infested trees with a solution of 2 pounds of 15% parathion under the supervision of an authorized employee of this department. Canning factories or any person or persons into whose possession infested cherries may come, are charged with and will be held responsible for the disposition of cherries containing cherry fruit fly maggots in the manner and form as above described.

(3) It is declared to be illegal for any person or persons operating any car, vessel, boat, truck, automobile, aircraft, wagon or other vehicle, to transport from 1 point to another within the state, cherries infested with the cherry fruit fly in any

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living stage of its development, and it is further declared to be illegal for any canning factory, dealer, or other person to receive for canning or to can, or to have in possession with intent to can or sell, cherries infested with the cherry fruit fly.

History: 1944 AC, p. 24; 1944 ACS 34, p. 8; 1954 AC, p. 1551.

REGULATION NO. 601. RASPBERRY INSPECTION AND CERTIFICATION

(By authority of Act No. 189 of the Public Acts of 1931, being §286.201 et seq. of the Michigan Compiled Laws)

R 285.601.1 Raspberry plant inspection and certification.

Rule 1. (1) For intrastate movement: Orange rust and all diseases of the virus type are designated injurious systemic diseases, and the presence of any of them constitutes "infection" within the meaning of this rule. Raspberry inspection certificates showing that raspberry plants have been inspected twice during the previous growing season will be issued only:

(a) After plantings have been inspected and rogued twice during the previous summer with an interval of at least 30 days between inspections and not more than 2% of the plants have been found infected on the first inspection and not more than 1% on second inspection. Each block of plants will be considered separately in determining eligibility for certification.

(b) When all visibly infected plants have been eradicated and removed from the plantation at once by the owner to the satisfaction of the inspector.

(c) When each bundle, bale, box, or carload lot shall have attached to it a copy of a special certificate issued by the commissioner of agriculture which will show that the plants in the bundle, bale, box, or carload lot have been inspected and conform to the requirements of this rule. The department of agriculture reserves the right to return to the point of origin any raspberry plants apprehended in the state of Michigan without such a certificate.

(d) In order to control and eradicate above mentioned diseases and others affecting the raspberry, it is desirable that insofar as possible all raspberry plantations, regardless of the extent of area or whether or not the plants are to be sold, shipped, or transported, should have 2 inspections each season. The cooperation of all nurserymen and fruit growers is solicited.

(e) Whenever infected plants are known to exist, they shall be promptly destroyed without awaiting visit of the inspector. Raspberry plantations which have become unprofitable, owing to the presence of these or other diseases, neglect, or other causes, shall be promptly and carefully destroyed for the protection of the owner and his neighbors.

(2) For interstate movement: It has been determined by the department of agriculture that injurious systemic diseases of raspberry plants existing in other states constitute dangerous plant disease infections with reference to which the secretary of agriculture of the United States has not established a federal quarantine; therefore, under the authority conferred by the statutes of this state, the department orders that no raspberry plants shall be imported into the state of Michigan:

(a) Unless they have been inspected by an official state inspector of the state in which they were grown in conformity with rules substantially similar to those stated above for intrastate movement.

(b) Unless each bundle, bale, box, or carload lot shall have attached to it a copy of a special certificate from the said official inspector which will show that the plants in the bundle, bale, box, or carload lot have been inspected and do conform to the requirements of this rule. The department of agriculture reserves the right

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to return to the point of origin any raspberry plants received in the state of Michigan without such a certificate.

(3) This rule supersedes all previous rules and regulations and shall be immediately effective.

History: 1944 AC, p. 25; 1954 AC, p. 1551.

REGULATION NO. 602. NURSERY STOCK LICENSES

R 285.602 Rescinded.

History: 1954 AC, p. 1553; rescinded 1954 ACS 69, p. 35, Eff. Oct. 4, 1971.

REGULATION NO. 605. DISPOSAL OF CHRISTMAS TREES

(By authority of Act No. 124 of the Public Acts of 1933, as amended, being §320.401 et seq. of the Michigan Compiled Laws)

R 285.605.1 Removal and disposal of Christmas trees, evergreen boughs, and other articles seized for failure to comply with law.

Rule 1. It is hereby directed that all Christmas trees, evergreen boughs, and other articles that shall be seized by reason of failure to comply with Act No. 124 of the Public Acts of 1933, as amended by Act No. 332 of the Public Acts of 1941, may be disposed of by gift to any recognized charitable institution of the state of Michigan, or destroyed as circumstances may dictate to the officer seizing such property.

History: 1944 AC, p. 28; 1954 AC, p. 1553.

REGULATION NO. 606. BLUEBERRY REGULATION

(By authority of section 23 of Act No. 189 of the Public Acts of 1931, as amended, being §286.223 of the Michigan Compiled Laws)

R 285.606.1 Blueberry nursery stock.

Rule 1. (1) Blueberry nursery stock offered for sale, sold, shipped, or otherwise transported into or within this state must be propagated from scionwood obtained from plants inspected and certified to be apparently free from "stunt" and other contagious plant diseases, provided such nursery stock and scionwood source plants shall be isolated more than 300 feet from uncertified plants.

(2) Fields of blueberry nursery stock and scionwood source plants to be certified must be inspected at least once during each growing season and must not contain more than a total of 1% "stunt" plants or plants otherwise infected with systemic plant diseases.

(3) When making inspections of blueberry nursery stock or scionwood source fields, plant industry division inspectors shall place a conspicuous distinguishing mark on each plant infected with "stunt" or other systemic diseases. Plants so marked must be removed from the ground by the grower within 10 days.

(4) Blueberry plants, scionwood, or cuttings shipped or transported into or within the state of Michigan must be accompanied by a valid certificate of inspection setting forth the fact that the plants, scionwood, or cuttings have been inspected and certified in accordance with the provisions of this rule.

History: 1944 ACS 28, p. 5; 1954 AC, p. 1553; 1954 ACS 23, p. 7, Eff. Aug. 12, 1960.

REGULATION NO. 607. TOMATO SEED CERTIFICATION

(By authority of section 22 of Act No. 189 of the Public Acts of 1931, as amended, being §286.222 of the Michigan Compiled Laws)

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R 285.607.1 Tomato seed certification.

Rule 1. (1) Any producer of tomato seed in Michigan may secure inspection of the seed he produces provided he files proper application and complies with the requirements and regulations established for inspected and certified seed.

(2) Application in writing, on a prescribed form, for inspection must be made to the plant industry division prior to July 15 of each year.

(3) The applicant must agree to keep accurate records on his methods of production, and the amount of inspected and certified seed produced, and the names and addresses of the individual firms or companies to whom inspected and certified seed was sold, including the amount used by the producer, which are open to the Michigan department of agriculture.

(4) Payment of all charges for inspection shall be made to the Michigan department of agriculture, plant industry division. A charge of not more than $2.50 per acre or fraction thereof shall be made for each field inspection.

(5) Inspection:

(a) An inspection shall be made before first harvest. This will include an inspection of the fields and also of the extraction plant and the provisions made for the proper extraction, treatment, and handling of the seed. All diseased and weak or off-type plants observed in fields will be rogued out by the inspector at time of inspection.

(b) A second inspection may be made approximately 3 weeks after the first inspection at the option of the department.

(6) Standards for inspection. A field to be eligible for certification must be isolated by at least 30 feet or separated by an interplanting of another crop or by a permanent physical barrier such as a fence or drainage ditch from fields of any other variety or from fields of the same variety that do not comply with certification standards.

(a) Each field submitted for certification shall be considered as a separate unit.

(b) Not more than 1% of varietal mixture shall be tolerated.

(c) Fields shall not be accepted for certification in which over 1/10 of 1% of bacterial canker or 1/10 of 1% of bacterial spot are found at the time of inspection.

(d) Fields containing more than 1% of plants affected with Fusarium wilt at the time of inspection shall not be accepted for certification.

(e) Fields to be eligible for certification must at all times be reasonably free from any other seedborne diseases which cannot be effectively controlled by surface disinfection of the seed.

(f) A field must be disqualified at any time for any disease, insect, or other condition which in the judgment of the inspector may be of sufficient importance to disqualify it.

(g) All portable grinders which are used to prepare tomatoes for fermentation shall be thoroughly cleaned to avoid varietal mixtures.

(h) Seed shall not be certified unless fermented in its own juice for a suitable length of time or treated with acetic acid according to the methods approved by the Michigan department of agriculture.

(i) Fields shall not be accepted for inspection if they are neglected and so weedy or otherwise in such condition that a satisfactory inspection cannot be made.

(7) Official certificates and seals must be secured from the Michigan department of agriculture, plant industry division, and must be affixed to each container of certified seed offered for sale, sold, or shipped. Certificates and seals may be affixed to containers of certified seed by the grower only after permission to do so has been granted by the Michigan department of agriculture, plant industry division.

History: 1944 ACS 7, p. 6; 1954 AC, p. 1555; 1954 ACS 2, p. 10, Eff. May 13, 1955; 1954 ACS 10, p. 8, Eff. June 14, 1957.

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REGULATION NO. 608. WHITE PINE BLISTER RUST

R 285.608 Rescinded.

History: 1944 ACS 5, p. 5; 1954 AC, p. 1554; rescinded 1954 ACS 56, p. 6, Eff. Nov. 14, 1968.

REGULATION NO. 609. STRAWBERRY PLANTS

(By authority of Act No. 189 of the Public Acts of 1931, as amended, being §286.201 et seq. of the Michigan Compiled Laws)

R 285.609.1 Strawberry plant inspection and certification.

Rule 1. (1) Strawberry plants shall be considered eligible for inspection and certification provided the plants are taken from plantings that are:

(a) First year plantings.

(b) Well cultivated and maintained essentially free of weeds and grasses.

(c) Generally thrifty. Very thin plant stands may be disqualified.

(d) Planted on soil that has not been exposed to the Red Stele disease within the past 15 years.

(e) Maintained apparently free of insect pests, plant diseases and parasitic nematodes and within the standards established by this rule.

(2) The following combination of inspections shall be required as a prerequisite to certification:

(a) One or more inspections of the plants made on or about blossoming time or at such season of the year when soil temperature and moisture and growing conditions are proper for expression of the symptoms of the Red Stele disease caused by the fungus Phytophthora fragaria.

(b) One or more inspections made during the late summer or fall seasons for other insect pests, plant diseases, and nematodes.

(3) Certified plants must be apparently free of insect pests, plant diseases, and parasitic nematodes, and must originate from plantings in which the number of plants infested with certain pests do not exceed the tolerances herein provided:

(a) Red Stele—zero.

(b) Crimp (Foliar nematode disease)—zero.

(c) Root knot nematode—zero, provided that plantings not generally infested at the time of field inspection may be restricted at the discretion of the director subject to inspection at the grower's request and his expense, after the plants have been dug and graded.

(d) June yellows (Blakemore yellows)—1% provided visibly affected plants are rogued.

(e) Crinkle and virus yellows—zero.

(f) Aster yellows and witches broom—1%, provided infected plants are rogued.

(4) Only those strawberry plants that meet the foregoing certification requirements and have been produced in accordance with the following standards shall be certified to be "disease free" or "virus free" or "produced from 'virus free' stock" or "registered" or "foundation stock" or any other term or terms that may be so construed, and the use of any such terms in labeling, advertising or selling strawberry plants shall be restricted to plants so classified by the legally constituted plant regulatory official of the state of origin, provided that strawberry plant foundation stock utilized in Michigan shall mean plants determined to be free of known harmful virus diseases by the Michigan department of agriculture:

(a) Foundation stock approved by the plant regulatory official must be planted on a site approved by such official and shall be at all times isolated by at least

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1,500 feet from other strawberry plants, either domesticated or wild, provided that enclosure of the planting site with an approved insect-proof screenhouse shall nullify the isolation requirement.

(b) The planting site shall not have been cropped in potatoes, tomatoes, or other solanaceous plants within the preceding 5 years.

(c) The soil of the planting site must be fumigated for the eradication of parasitic nematodes prior to planting.

(d) Fragaria vesca indicator plants must be planted in a border row around the planting or interplanted in a manner approved by the plant regulatory official.

(e) Insect vectors of viruses and other insect pests shall be controlled by the application of insecticide at prescribed intervals, using such formulations and quantities of materials as shall be approved by the plant regulatory official.

(f) Propagation of plants for special certification may continue from foundation stock for a maximum period of 2 years, provided that virus-infected plants are not found at the planting site.

(5) The requirements set forth within the provisions of subrules (1), (2), and (3) of this rule shall constitute the minimum for the certification of strawberry plants shipped or carried into or within Michigan, and plants so certified, shipped, or carried must be accompanied by a valid certificate of inspection issued by the legally constituted certifying agency of the state of origin.

History: 1944 ACS 7, p. 6; 1954 AC, p. 1555; 1954 ACS 2, p. 10, Eff. May 13, 1955; 1954 ACS 14, p. 5, Eff. May 14, 1958; 1954 ACS 22, p. 53, Eff. May 13, 1960.

REGULATION NO. 610. INSPECTION FEES

(By authority conferred on the commission of agriculture by sections 6, 21, and 22 of Act No. 189 of the Public Acts of 1931, as amended, and by section 178 of Act No. 380 of the Public Acts of 1965, being §§286.206, 286.221, 286.222, and 16.278 of the Michigan Compiled Laws)

R 285.610.1 Nursery stock, corm, and tuber inspection; fees.

Rule 1. Fees for field inspection of nursery stock as defined in section 2(d) of Act No. 189 of the Public Acts of 1931, as amended, being §286.202 of the Michigan Compiled Laws, and corms and tubers, except as hereinafter provided, shall be assessed at the rate of $9.00 for the first acre and $4.00 per acre for each additional acre, computed to the nearest whole acre. Fees for additional inspections required for certification in the same year shall be assessed at the rate of $4.00 per acre, computed to the nearest whole acre.

History: 1944 AC, p. 27; 1944 ACS 9, p. 31; 1944 ACS 29, p. 7; 1954 AC, p. 1556; 1954 ACS 15, p. 5, Eff. Aug. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 58, p. 18, Eff. May 15, 1969; 1954 ACS 85, p. 11, Eff. Dec. 10, 1975.

R 285.610.2 Native tree and plant inspection; fees.

Rule 2. Fees for inspection of native trees and plants shall be assessed at the rate of $8.00 per man-hour, computed to the nearest half hour. The minimum fee shall be $8.00. Fees for plant inspection other than nursery stock, where a charge by the acre is appropriate, shall be assessed at the rate of $9.00 for the first acre and $4.00 per acre for each additional acre, computed to the nearest whole acre.

History: 1944 AC, p. 27; 1944 ACS 9, p. 31; 1944 ACS 29, p. 7; 1954 AC, p. 1556; 1954 ACS 15, p. 5, Eff. Aug. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 58, p. 18, Eff. May 15, 1969; 1954 ACS 85, p. 11, Eff. Dec. 10, 1975.

R 285.610.3 Store shelf, heeling-in-grounds, warehouse, import, export, and other special inspections; fees.

Rule 3. Fees for store shelf, heeling-in-grounds, warehouse, import, export, and other special inspections shall be assessed at the rate of $8.00 per man-hour, computed to the nearest half hour.

History: 1944 AC, p. 27; 1944 ACS 9, p. 31; 1944 ACS 29, p. 7; 1954 AC, p. 1556; 1954 ACS 15, p. 5, Eff. Aug. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 58, p. 18, Eff. May 15, 1969; 1954 ACS 85, p. 11, Eff. Dec. 10, 1975.

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REGULATION NO. 611. GLADIOLUS INSPECTION AND CERTIFICATION

(By authority conferred on the commission of agriculture by section 22 of Act No. 189 of the Public Acts of 1931, as amended, and section 178 of Act No. 380 of the Public Acts of 1965, being §§16.278 and 286.222 of the Michigan Compiled Laws)

R 285.611.1 Application for inspection.

Rule 1. A request for inspection and certification shall be made in writing to the plant industry division, on or before April 1 of the year in which the inspection services are to be performed.

History: 1944 ACS 10, p. 5; 1954 AC, p. 1557; 1954 ACS 3, p. 6, Eff. Aug. 15, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 7, Eff. Sept. 15, 1972.

Editor's note: Regulation No. 611, being former R 285.611 of the Michigan Administrative Code, was amended by 1954 ACS 72, p. 7, to appear as R 285.611.1 to R 285.611.8. For text and history of former R 285.611, see 1963 AACS, p. 2826.

R 285.611.2 Inspections required.

Rule 2. The following inspections are required for certification:

(a) One or more field inspections, 1 of which shall be made at or near blossoming time.

(b) One or more warehouse inspections after the corms are cleaned and cured.

History: 1944 ACS 10, p. 5; 1954 AC, p. 1557; 1954 ACS 3, p. 6, Eff. Aug. 15, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 7, Eff. Sept. 15, 1972.

R 285.611.3 Eligibility.

Rule 3. Gladiolus corms are eligible for inspection if:

(a) Grown in well cultivated plantings maintained essentially free of weeds and grasses.

(b) Identified in the field as to variety either by name stakes or similar device or by a planting chart made available to the inspector at the time of field inspection. Similar identification of varieties shall be available at the time of storage inspection. An intermixture of several varieties may be represented as "mixed."

(c) Free of the old roots and mother corms and cured so the husk is dry and moisture is not visible on the surface of the corm. Corms dug for early shipment and not thoroughly cured may be inspected and given the limited certification hereinafter provided.

(d) Of varieties approved by field inspection prior to submission for storage inspection.

History: 1944 ACS 10, p. 5; 1954 AC, p. 1557; 1954 ACS 3, p. 6, Eff. Aug. 15, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 7, Eff. Sept. 15, 1972.

R 285.611.4 Inspection procedure.

Rule 4. Field inspections shall be made of all plants of the varieties submitted for inspection. Not less than 10% of the corms of a variety submitted for storage inspection shall be examined.

History: 1944 ACS 10, p. 5; 1954 AC, p. 1557, 1954 ACS 3, p. 6, Eff. Aug. 15 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 7, Eff. Sept. 15, 1972.

R 285.611.5 Field inspection standards.

Rule 5. (1) An aggregate tolerance of 1% shall be allowed per variety for diseases such as, but not limited to, white break mosaic and aster yellows or other virus diseases that seriously affect the true color, shape or size of the bloom or leaves or the vigor of the plant. The infected plants of a variety within the tolerance shall be rogued at the time of field inspection.

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(2) A tolerance of 5% each shall be allowed per variety for bacterial blight and stemphyllium. A tolerance of 2% shall be allowed per variety for fusarium yellows.

History: 1944 ACS 10, p. 5, 1954 AC, p. 1557; 1954 ACS 3, p. 6, Eff. Aug. 15, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 7, Eff. Sept. 15, 1972.

R 285.611.6 Storage inspection standards.

Rule 6. (1) Only those varieties approved by 1 or more field inspections are eligible for storage inspection.

(2) A tolerance of 2% each shall be allowed per variety for sclerotinia, curvularia, fusarium, septoria and penicillium. A tolerance of 5% shall be allowed per variety for bacterial scab. A variety diseased in excess of these tolerances but not in excess of an aggregate of 10% may be resubmitted for a second storage inspection, the results of which shall be final. For certification an aggregate percentage of 8% shall be allowed for these diseases if the percentage of any one disease does not exceed the tolerances established herein and not more than 3% of the corms are infected with diseases other than bacterial scab.

(3) Corms infested with thrips shall not be certified but may be treated and resubmitted for inspection and certification.

History: 1944 ACS 10, p. 5; 1954 AC, p. 1557; 1954 ACS 3, p. 6, Eff. Aug. 15, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 7, Eff. Sept. 15, 1972.

R 285.611.7 Inspection certificate; use.

Rule 7. The inspection certificate shall be used in the sale or shipment of corms inspected and certified and not diseased in excess of the tolerances provided for certification. A certificate for corms not thoroughly cured, as provided in R 285.611.3(c) shall be used only where the corms have been inspected and certified within 30 days of sale or shipment. The corms may be resubmitted for storage inspection if not sold or shipped within the 30-day period.

History: 1944 ACS 10, p. 5; 1954 AC, p. 1557; 1954 ACS 3, p. 6, Eff. Aug. 15, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 8, Eff. Sept. 15, 1972.

R 285.611.8 Seizure of diseased corms.

Rule 8. Corms showing a percentage of disease of more than the foregoing tolerances and offered for sale may be seized, ordered resorted or returned to the grower, at the discretion of an official inspector of the plant industry division.

History: 1944 ACS 10, p. 5; 1954 AC, p. 1557; 1954 ACS 3, p. 6, Eff. Aug. 15, 1955; 1954 ACS 16, p. 5, Eff. Nov. 14, 1958; 1954 ACS 37, p. 9, Eff. Feb. 14, 1964; 1954 ACS 72, p. 8, Eff. Sept. 15, 1972.

REGULATION NO. 612. YELLOW RED VIROSIS

(By authority of Act No. 72 of the Public Acts of 1945, being §286.251 et seq. of the Michigan Compiled Laws)

R 285.612.1 Chokecherries declared public nuisance.

Rule 1. (1) In order to prevent the further introduction and spread of peach "X" disease (yellow red virosis) a serious contagious virus disease of chokecherries (Prunus virginiana) and peach and cherry trees, it is hereby necessary to order and declare chokecherries (Prunus virginiana) to be a public nuisance. Planting, possessing, growing, propagating, selling, or offering for sale plants, roots, or cuttings of chokecherries within distances of 500 feet of peach or cherry orchards and 1,000 feet of peach or cherry nursery stock is hereby prohibited, and any such plants now growing within the said distances must be eradicated.

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(2) Any roots, cuttings, or plants now planted or growing within the said distances of peach or cherry orchards and peach or cherry nursery stock may be ordered destroyed by the director of agriculture or his inspectors.

History: 1944 ACS 22, p. 5; 1954 AC, p. 1558.

REGULATION NO. 613. DUTCH ELM DISEASE

(By authority conferred on the commission of agriculture by section 6 of Act No. 72 of the Public Acts of 1945, section 1 of Act No. 13 of the Public Acts of 1921, as amended, and section 178 of Act No. 380 of the Public Acts of 1965, being §§286.256, 285.1, and 16.278 of the Michigan Compiled Laws)

R 285.613.1 Definition of control area.

Rule 1. "Control area," as used in these rules, means an area in the state in which a political subdivision of the state or an organization representing a majority of the resident property owners in an unincorporated subdivision or like area is conducting a program for the control of the Dutch elm disease consisting of both sanitation and spraying for vector control in accordance with the recommendations of the Michigan agricultural experiment station.

History: 1944 ACS 26, p. 6; 1944 ACS 34, p. 9; 1954 AC, p. 1558; 1954 ACS 31, p. 12, Eff. Aug. 14, 1962; 1954 ACS 63, p. 13, Eff. Aug. 14, 1970.

R 285.613.2 Infected trees.

Rule 2. (1) Trees of all species and varieties of Ulmus, Zelkova and Planera infected with the fungus Ceratocystis ulmi in control areas are declared to be a public nuisance and all above ground portions shall be destroyed by burning or by burying under a minimum of 2 feet of earth within 10 days after discovery of such infection.

(2) It is unlawful to possess, sell, give away or transport into or within a control area all or any parts of trees infected with such fungus, except that wood, branches and roots of such trees may be transported to a safe place for burning or burial.

History: 1944 ACS 26, p. 6; 1944 ACS 34, p. 9; 1954 AC, p. 1558; 1954 ACS 31, p. 12, Eff. Aug. 14, 1962; 1954 ACS 63, p. 13, Eff. Aug. 14, 1970.

R 285.613.3 Dead and dying trees as breeding places.

Rule 3. Trees, or parts thereof with bark attached, of Ulmus, Zelkova or Planera in a dead or dying condition that may serve as breeding places for the small European elm bark beetle (Scolytus multistriatus) or the native elm bark beetle (Hylurgopinus rufipes) are declared public nuisances in control areas. Transportation into or within a control area or possession within a control area of such trees or parts thereof, except for immediate burning or burial as provided in R 285.613.2 shall be unlawful unless the bark has been completely removed.

History: 1944 ACS 26, p. 6; 1944 ACS 34, p. 9; 1954 AC, p. 1558; 1954 ACS 31, p. 12, Eff. Aug. 14, 1962; 1954 ACS 63, p. 13, Eff. Aug. 14, 1970.

R 285.613.4 Transportation of live trees.

Rule 4. Live trees of Ulmus, Zelkova or Planera with roots attached shipped or otherwise transported into or within the state shall first have been inspected while in full leaf by a state or federal plant regulatory officer and determined to be free of the symptoms of the Dutch elm disease and infestation by such bark beetles.

History: 1944 ACS 26, p. 6; 1944 ACS 34, p. 9; 1954 AC, p. 1558; 1954 ACS 31, p. 12, Eff. Aug. 14, 1962; 1954 ACS 63, p. 13, Eff. Aug. 14, 1970.

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REGULATION NO. 614. OFFICIAL HEARINGS

R 285.614 Rescinded.

History: 1944 ACS 26, p. 6; rescinded 1944 ACS 38, p. 5.

REGULATION NO. 615. ALFALFA WEEVIL

(By authority of section 23 of Act No. 189 of the Public Acts of 1931, as amended, being §286.223 et seq. of the Michigan Compiled Laws)

R 285.615.1 Alfalfa weevil.

Rule 1. (1) Infested states: Arizona, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Maryland, Montana, Nebraska, Nevada, New Jersey, New York, New Mexico, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Virginia, Washington, West Virginia, and Wyoming.

(2) Regulated products: Alfalfa hay or other hay of any kind and cereal straw.

(3) Regulations governing shipments:

(a) The importation directly or indirectly from the infested states into Michigan of alfalfa hay as such or other hay of any kind, or cereal straw, which has been grown or stored in the infested areas is prohibited, including their use as packing material or for any other purpose, except as hereinafter provided.

(b) The importation, directly or indirectly, into Michigan of alfalfa meal or chopped alfalfa hay grown, ground, or stored in the infested states, is hereby forbidden, except when accompanied by a certificate as hereinafter provided, and provided that all shipments of chopped alfalfa hay are made during the period from December 1 to March 15, inclusive.

(4) Regulations governing certification:

(a) Hay and straw named in subrule (2) may be admitted into Michigan where it has been inspected and certified by a duly authorized state or federal inspector to be free from the alfalfa weevil, and loaded in trucks, cars, or other vehicles free from infestation, to which is attached a valid copy of a certificate so certifying.

(b) Alfalfa meal: All certificates issued for shipment of alfalfa meal from the infested states must certify:

(i) That the mill or mills in which the product was ground are registered as accredited mills with the department of agriculture or other state quarantine officer of the state in which they are located, and that they are so constructed, situated, and managed, and that the products after being milled are so handled as to prevent the meal and containing bags from becoming infested with alfalfa weevil.

(ii) That the product was shipped immediately after being milled or that if stored before shipment, it was stored in a warehouse remote from growing alfalfa, alfalfa hay, or other hay, straw, or other means of contamination.

(iii) That it was sacked in new or re-cleaned sacks.

(iv) That the car or truck was thoroughly cleaned before being loaded.

(c) Chopped alfalfa hay: All certificates issued for shipments of chopped alfalfa hay from the infested states must certify:

(i) That the hay was chopped and shipped during the period from December 1 to March 15, inclusive.

(ii) That the hay was chopped and blown into the car through a blower making not less than 2,100 revolutions per minute, under the supervision of an authorized inspector at the state of origin.

(iii) That the car or truck was thoroughly cleaned before being loaded.

(d) Methyl bromide fumigation: Any regulated products mentioned in subrule

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(2), when fumigated with methyl bromide at the rate of 2½ pounds retained for 12 hours, and under the supervision of a duly authorized state or federal inspector, and accompanied by a certificate to this effect, may be admitted into Michigan from the "infested states," provided it has been immediately loaded into trucks, cars, or other vehicles which have been previously found free from infestation with the alfalfa weevil.

(5) All certificates provided for in this quarantine must be in triplicate, and signed by the official inspector of the state of origin or his duly authorized representative. Immediately upon the issuance of a certificate, the original copy must be mailed to the Michigan state department of agriculture, Lansing, Michigan; the duplicate copy must be attached to each car, truck, or parcel of the regulated products; and the triplicate copy attached to the waybill. The certificate must show the name and address of the consignor, the name and address of the consignee, the date when the shipment was made, the number of the car or license number of the truck, and the name of the railroad or owner of the truck or other vehicle.

History: 1944 ACS 34, p. 5; 1954 AC, p. 1559; 1954 ACS 11, p. 5, Eff. Aug. 14, 1957; 1954 ACS 14, p. 6, Eff. May 14, 1958; 1954 ACS 23, p. 8, Eff. Aug. 12, 1960.

REGULATION NO. 617. BLACK STEM RUST

(By authority of section 19 of Act No. 189 of the Public Acts of 1931, as amended, being §286.219 of the Michigan Compiled Laws)

R 285.617.1 Black stem rust of small grains.

Rule 1. (1) All species and varieties of the genera Berberis, Mahonia and Mahoberberis and all living parts thereof determined by the director of agriculture to be susceptible alternate hosts for the black stem rust of small grains caused by Puccinia graminis are hereby declared to be a public nuisance and the growing, sale, distribution, transportation, or planting of such plants or living parts thereof is prohibited.

(2) Plants or living parts thereof taken for purposes of propagation of the species and varieties of the genera Berberis, Mahonia and Mahoberberis resistant to the black stem rust of small grains must be certified according to the following provisions before being propagated, transported, distributed, offered for sale, or sold:

(a) Rust-resistant plants of Berberis and Mahoberberis of not less than 2 seasons' growth on their own roots and Mahonia plants of 1 season's growth will be eligible for movement after certification; provided plants of Berberis and Mahoberberis of 1 season's growth may be received by a nurseryman so licensed under section 9 of Act No. 189 of the Public Acts of 1931, as amended, being §286.209 of the Michigan Compiled Laws, as amended by Act No. 255 of the Public Acts of 1955, from a source approved by the director of agriculture or the United States department of agriculture.

(b) Plants of Berberis and Mahoberberis of 1 season's growth received by a nurseryman from an approved source must be retained by the nurseryman for at least 2 growing seasons and must be maintained separate from certified plants or those eligible for certification.

(c) The transportation, distribution or sale of seeds and fruits of Berberis and Mahonia shall be restricted to those seeds and fruits obtained from plants certified to be rust-resistant by the director of agriculture or the United States department of agriculture. Such seeds or fruits must be accompanied by a certificate attesting to the rust-resistance of the parent plants when being transported, distributed or sold.

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(3) Any nurseryman, person, firm, partnership, or corporation, upon making application in writing for the rust-resistant certification of plants or living parts thereof of Berberis, Mahonia, or Mahoberberis, shall furnish evidence of the source, species, and variety of the plants or parts thereof to be certified, and any other information deemed necessary by the director of agriculture for the proper identification, inspection, and certification of the plants or parts thereof.

History: 1954 ACS 11, p. 6, Eff. Aug. 14, 1957.

REGULATION NO. 618. DAHLIAS

(By authority of section 22 of Act No. 189 of the Public Acts of 1931, as amended, being §286.222 of the Michigan Compiled Laws)

R 285.618.1 Dahlia inspection and certification.

Rule 1. (1) A dahlia grower desiring inspection and certification of dahlia tubers must make written application for inspection by July 1 of the year in which the inspection services are to be performed.

(2) The applicant shall agree to pay for the services rendered at the following rate: $2.00 per acre or fraction thereof for each inspection, the fee for the first inspection in any 1 season to total not less than $5.00.

(3) Dahlia tubers shall be considered eligible for inspection and certification provided the tubers are:

(a) Grown in plantings that are well cultivated and maintained essentially free of weeds and grasses and are otherwise in a condition that will permit satisfactory inspection.

(b) Identified as to variety in the field either by name stakes or similar device or by a planting chart made available to the inspector at the time of field inspection.

(4) Inspection standards:

(a) One or more inspections annually shall be made at the discretion of the agency.

(b) Plants submitted for inspection and certification must be reasonably isolated from dahlia plantings not submitted or those containing stock varieties condemned the previous year.

(c) Stock varieties condemned in previous seasons may be submitted for certification if segregated and providing measures have been taken to eliminate the diseased or otherwise undesirable tubers.

(d) On the initial inspection each year, a variety having 10% or more of the plants exhibiting symptoms of systemic diseases will be ineligible for certification.

(e) A variety having more than 5% but less than 10% of the plants infected with systemic diseases at the time of the initial field inspection each year shall be restricted from certification and the grower given an opportunity to rogue the plants exhibiting such symptoms and to resubmit the variety for a second field inspection, the results of which shall be final.

(f) On any inspection, inspectors will not rogue varieties having more than 5% of the plants showing typical, recognizable symptoms of systemic diseases.

(g) Only those varieties apparently free of systemic diseases after inspection and roguing will be certified.

(5) The inspection certificate issued must be used only in conjunction with the sale, offering for sale, distribution, or shipment of dahlia tubers that have been inspected and approved in accordance with the provisions of this rule.

History: 1954 ACS 18, p. 34, Eff. May 15, 1959.

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REGULATION NO. 619.
FRUIT TREE SCIONWOOD, UNDERSTOCK, AND NURSERY STOCK

(By authority conferred on the commission of agriculture by Act No. 189 of the Public Acts of 1931, as amended, and section 178 of Act No. 380 of the Public Acts of 1965, being §§286.201 to 286.206 and 16.278 of the Michigan Compiled Laws)

R 285.619.1 Scionwood certification.

Rule 1. Scionwood will be certified as virus-free when produced on a parent tree registered by the department of agriculture, hereinafter referred to as the department, as being virus-free, the virus-free characteristic of the registrant to be determined by the following procedures:

(a) At least 2 visual inspections during the growing season immediately prior to registration.

(b) Indexing, utilizing the following hosts or others shown by research to be efficacious:

(i) For cherry: Oriental flowering cherry, Montmorency cherry, the sweet cherry variety Sam.

(ii) For apple: Russian Clone R-12740-A, Virginia Crab, Spy 227, Malus Platycarpa (Long Ashton Clone).

(iii) For peach and plum: Oriental flowering cherry, Montmorency cherry.

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 33, Eff. Nov. 15, 1967.

R 285.619.2 Scionwood orchards; location and plantings.

Rule 2. (1) The registrant shall be grown in a planting, hereinafter known as a scionwood orchard, isolated at least 500 feet from wild and cultivated bearing-age trees of the same genus not eligible for registration. A scionwood orchard shall be planted in a manner approved by the department and that will assure optimum cultural conditions. A planting chart of the scionwood orchard shall be furnished the department and all planting and maintenance records shall be made available for department inspection. Trees shall be planted so that branches of different varieties of the same fruit species do not intermingle. The trueness-to-name of a tree submitted for registration shall be established to the satisfaction of the department before scionwood is distributed from it.

(2) Scionwood from registered trees may be offered for sale or sold as "Michigan certified virus-free scionwood."

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 33, Eff. Nov. 15, 1967.

R 285.619.3 Scionwood orchards; care; additions; removals.

Rule 3. (1) A scionwood orchard and the registered trees therein shall be cared for as follows:

(a) Clean cultivated at all times with the exception of a winter cover crop or mowed sod culture.

(b) Fertilized and pruned to assure maximum quality scionwood growth.

(c) Maintained in an insect pest and disease-free condition by intensive spraying and other control practices recommended by the department.

(2) Trees shall not be added to or removed from a scionwood orchard without prior notice to the department. Trees in the scionwood orchard determined to be undesirable by the department shall be removed by the owner or person in charge within 10 days of receipt of notice from the department.

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 33, Eff. Nov. 15, 1967.

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R 285.619.4 Parent tree registration.

Rule 4. A registered parent tree shall be assigned an identifying registration number by the department. Registration of a parent tree will be continued from year to year if the preceding requirements are met and biannual growing season inspections and indexing by the department show the tree to be free of virus diseases. Registered trees shall be indexed on indexing host plants at the discretion of the department.

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 33, Eff. Nov. 15, 1967.

R 285.619.11 Understock parent tree certification.

Rule 11. (1) An understock seed source parent tree is considered registered when determined to be free of seed transmissible viruses by procedures established in R 285.619.1. Continuance of registration depends upon the registrant remaining virus-free as determined by procedures established in R 285.619.4.

(2) A clonal understock parent tree or stool bed is eligible for registration when it is the direct, own-rooted progeny of a registrant or when it is determined to be virus-free by the procedures established in R 285.619.1 and trueness-to-name has been established to the satisfaction of the department. A continuous row of a clone on its own roots established for layering or for cuttings is considered a stool bed and a unit for registration purposes. Continuance of registration depends upon the registrant remaining virus-free as determined by procedures established in R 285.619.4.

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 34, Eff. Nov. 15, 1967.

R 285.619.21 Nursery stock, understock, and seed; designation.

Rule 21. (1) Finished fruit tree nursery stock, understocks or understock seed, when certified according to these rules, may be offered for sale or sold as:

(a) "Grown from certified virus-free scionwood" when produced from certified scionwood.

(b) "Michigan certified virus-free fruit trees" when produced from certified scionwood and understocks.

(c) "Michigan certified virus-free understocks" when produced from certified seed or clonal sources.

(2) The use of such terms as virus-free, grown from certified virus-free scionwood, certified virus-free, Michigan certified virus-free fruit trees, Michigan certified virus-free understocks, Michigan certified virus-free scionwood, and such other term or terms that may be so construed to describe fruit tree nursery stock, scionwood, understocks, or understock seed, shall be restricted to that nursery stock, scionwood, understocks, or understock seed so certified under these rules.

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 34, Eff. Nov. 15, 1967.

R 285.619.22 Nursery stock, scionwood, understock, and seed; certification.

Rule 22. (1) Trueness-to-name inspection and certification by the department of finished nursery stock and clonal understocks of apple, cherry, or plum shall be a prerequisite for certification under these rules.

(2) Scionwood, understock seed, or understocks certified by the plant regulatory official of the state of origin by procedures comparable to those provided by these rules and acceptable to the department are considered certified.

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 34, Eff. Nov. 15, 1967.

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R 285.619.31 Fees.

Rule 31. The following annual fees shall be charged for registration and certification services, those for parent tree and stool bed registration being cumulative:

(a) Scionwood, understock, and understock seed parent tree registration.

(i) 50 trees or less $50.00
(ii) 51 to 200 trees ..... .50 per tree
(iii) 201 to 500 trees ..... .40 per tree
(iv) 501 to 1,000 trees ..... .30 per tree
(v) 1,001 and over ..... .20 per tree

(b) Clonal understock stool bed registration fees shall be charged in accordance with the foregoing schedule on the basis of the number of trees from the bed annually indexed or a minimum equivalent to 4 indexed trees per 100 feet of bed.

(c) Trueness-to-name certification fees shall be charged at the rate of $5.00 per man-hour of inspection time.

History: 1954 ACS 19, p. 6, Eff. Aug. 14, 1959; 1954 ACS 52, p. 34, Eff. Nov. 15, 1967.

REGULATION NO. 620. QUARANTINE

(By authority of section 23 of Act No. 189 of the Public Acts of 1931 and section 6 of Act No. 72 of the Public Acts of 1945, being §§286.223 and 286.256 of the Michigan Compiled Laws)

R 285.620.1 Quarantine; purpose.

Rule 1. (1) The director of agriculture when he shall find that there exists in any state, territory, or district or part thereof any dangerous insect pest or plant disease infestation with reference to which the secretary of agriculture of the United States has not established a quarantine may promulgate and enforce by this rule a quarantine prohibiting or restricting the transportation into, within, or through the state, or any portion thereof, from such other state, territory, or district, of any class of nursery stock, plant, fruit, seed, or other article of any character whatsoever, capable of carrying such plant disease or insect infestation.

(2) A quarantine shall recite the following:

(a) The dangerous plant pest involved by common name or scientific name, or both.

(b) Definitions of the terms used.

(c) The quarantined or regulated area by naming the state, territory, or district, or designated portions thereof, by recognized political subdivisions or legal land description.

(d) The classes or names of the nursery stock, plants, fruits, seeds, or other articles of any character, the movement of which is prohibited or restricted into or within Michigan.

(e) Any treatment, certification, or other action or condition that will permit the movement of restricted articles into or within this state from the quarantined area.

(f) Conditions of seizure, treatment, or destruction of prohibited or restricted articles moving into or within this state in violation of the quarantine or the return of such articles to the quarantined area.

History: 1954 ACS 19, p. 7, Eff. Aug. 14, 1959.

REGULATION NOS. 621, 622. WEED KILLERS IN GRAPE VINEYARDS

R 285.621, R 285.622 Expired.

History: 1954 ACS 20, pp. 5, 6, Eff. July 23, 1959; expired Oct. 1, 1959.

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REGULATION NO. 623. FIELD SEED CERTIFICATION

(By authority conferred on the commission of agriculture by sections 2 and 3 of Act No. 221 of the Public Acts of 1959 and section 178 of Act No. 380 of the Public Acts of 1965, being §§286.72, 286.73, and 16.278 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 285.623.1 Designation of seed-certifying agency.

Rule 1. The Michigan crop improvement association is designated an official seed-certifying agency to assist and advise the director of the department of agriculture in certifying the varietal purity, quality, vitality, and disease-freedom of seeds of field crops in accordance with these rules and standards established in cooperation with the seed-certifying agency.

History: 1954 ACS 23, p. 9, Eff. Aug. 12, 1960; 1954 ACS 28, p. 34, Eff. May 15, 1961; 1954 ACS 30, p. 7, Eff. May 15, 1962; 1954 ACS 34, p. 13, Eff. May 15, 1963; 1954 ACS 44, p. 28, Eff. Nov. 14, 1965; 1954 ACS 52, p. 35, Eff. Nov. 15, 1967; 1954 ACS 68, p. 12, Eff. June 14, 1971.

R 285.623.2 Seed origin and list of varieties.

Rule 2. (1) Certified seed shall be the progeny of foundation seed as defined in the act.

(2) A list of varieties and hybrids eligible for certification shall be published and made available to the public by the director of the department of agriculture.

History: 1954 ACS 23, p. 10, Eff. Aug. 12, 1960; 1954 ACS 28, p. 34, Eff. May 15, 1961; 1954 ACS 68, p. 12, Eff. June 14, 1971.

R 285.623.3 Applications for inspection and certification.

Rule 3. An application for inspection and certification shall be made to the certifying agency on or before the dates specified by the certifying agency.

History: 1954 ACS 52, p. 35, Eff. Nov. 15, 1967; 1954 ACS 68, p. 12, Eff. June 14, 1971.

R 285.623.4 Production of certified seed; restrictions.

Rule 4. (1) The production of certified seed of more than 1 variety of a crop on the same farm shall be approved by the certifying agency.

(2) Certified seed shall not be produced on land which grew any of the following plants the previous year:

(a) An inseparable species having the same growing season, except when summer fallowing intervenes.

(b) Plants of another variety of the same species.

(c) Plants of the same variety unless such plants came from certified seed.

(3) The land crop history for small-seeded legumes is provided for in R 285.623.24 to R 285.623.26.

History: 1954 ACS 68, p. 12, Eff. June 14, 1971; 1954 ACS 96, p. 66, Eff. Aug. 19, 1978.

R 285.623.5 Field conditions.

Rule 5. (1) A field containing more than an occasional weed which produces seed not readily separable from the crop seed or weed growth that will impair seed quality, or prevent adequate field inspection is ineligible for certification. Field borders and weedy areas in the field may require mowing before harvest if in the judgment of the inspector such action is necessary.

(2) Crops submitted for certification shall be rogued of weeds, other varieties and other crop plants by the grower before field inspection.

(3) Crops which show lack of vigor, lack of uniformity, evidence of inadequate cultural care, which are weedy or are subject to other conditions detrimental to production of high quality seed are ineligible for certification.

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(4) The seed of that portion of a crop to be field inspected which is less than 6 feet from an inseparable species, a variety of the same species, or the same variety grown from noncertified seed shall not be harvested for certification. An open-pollinated crop shall conform to isolations hereinafter prescribed.

History: 1954 ACS 68, p. 12, Eff. June 14, 1971.

R 285.623.6 Inspections and final certification.

Rule 6. (1) A field inspection shall be performed by the certifying agency when the identity of the variety, mixtures, weediness, disease, infection, vigor, and crop quality can best be determined, including, in the case of corn, factors affecting proper pollination.

(2) Seed submitted for certification shall be harvested and handled in such a manner as to avoid mixtures and shall be stored and processed in a place and in a manner approved by the certifying agency.

(3) Final certification by the official certifying agency shall be based upon inspection of a minimum representative sample of 5 pounds of cleaned seed. A composite sample of at least 1 pound of a small-seeded legume shall be submitted. The submitted sample of cleaned seed shall be representative of the entire lot of seed to be offered for sale.

(4) Analysis, examinations, and germination tests of seed shall be conducted in accordance with sections 2 to 4 of the rules of the association of official seed analysts effective July 1, 1965. These are available from the Michigan Department of Agriculture, P.O. Box 30017, Lewis Cass Building, Lansing, Michigan 48909, at no cost.

History: 1954 ACS 68, p. 12, Eff. June 14, 1971; 1954 ACS 96, p. 66, Eff. Aug. 19, 1978.

R 285.623.7 Containers and tags.

Rule 7. A bag or container of seed to be offered for sale or sold as certified, registered or foundation shall be identified as to variety. Seed offered for sale or sold as certified, registered or foundation shall be placed in new bags or containers and have attached thereto an official tag issued by the official certifying agency and be tagged or labeled in accordance with the provisions of Act No. 314 of the Public Acts of 1923, as amended, being §§286.51 to 286.63 of the Michigan Compiled Laws, and the standards herein established.

History: 1954 ACS 68, p. 13, Eff. June 14, 1971.

R 285.623.8 Grading and blending.

Rule 8. (1) Each variety shall be graded so as to conform to screen sizes as recommended by the official certifying agency and approved by the director of the department of agriculture.

(2) Two or more lots of certified seed of the same variety, strain, or hybrid may be blended with prior approval of the official certifying agency. The quality represented for the blend shall be that of the least desirable lot in the blend, unless 2 unrelated composite samples taken by the official certifying agency show the blend to be uniform.

History: 1954 ACS 68, p. 13, Eff. June 14, 1971.

R 285.623.11 Seed from out of state.

Rule 11. Seed produced in another state or country and sold and delivered in this state as certified, registered or foundation shall have been certified by a legally constituted agency of the state or country of origin in accordance with

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rules and standards equivalent to those established herein. Seed of such origin represented or labeled as registered shall have been produced and certified in accordance with rules and standards equal to or better than those established for certified seed.

History: 1954 ACS 68, p. 13, Eff. June 14, 1971.

R 285.623.12 Interagency certification.

Rule 12. If the Michigan crop improvement association participates with another certifying agency in performing services required to certify the same lot or lots of seed, the standards for such interagency certification shall be those provided in these rules.

History: 1954 ACS 96, p. 67, Eff. Aug. 19, 1978.

R 285.623.15 Modification of standards.

Rule 15. The minimum quality standards for foundation and certified seed, other than those affecting genetic purity established in these rules, may be modified by the director of the department of agriculture when application of the standard would threaten continued normal propagation of a crop variety.

History: 1954 ACS 68, p. 13, Eff. June 14, 1971; 1954 ACS 84, p. 28, Eff. Sept. 18, 1975.

PART 2. INDIVIDUAL CROP STANDARDS

R 285.623.21 Field beans.

Rule 21. (1) Field standards for field bean seed shall be as follows:

Factor	Maximum Each Class	
	Foundation	Certified
Other varieties	.05%	.10%
Inseparable other crops	none	none
Bacterial bean blight (percent of plants infected)	0.001%	0.005%
Anthracnose or common bean mosaic	0.001%	0.005%

Field beans must be planted in not less than 18-inch rows to be eligible for certification.

(2) Seed standards for field bean seed shall be as follows:

Factor	Classes of Seed	
	Foundation	Certified
Pure seed (minimum)	99.0%	99.0%
Inert matter (maximum)	1.0%	1.0%
Weeds (maximum)	none	none
Other crops (maximum)	1 per 3 lbs.	1 per lb.
Other varieties— same crop (maximum)	.05%	.10%
Germination (minimum)		90.0%
Garden vegetable beans (minimum)		85.0%
*Badly damaged seed (maximum)		1.0%
Bacterial blight infected seed (maximum)	none	none

*Badly damaged refers to beans which are seriously injured or badly discolored by frost, weather, disease, insects or other causes to seriously affect the seed lot.

History: 1954 ACS 68, p. 13, Eff. June 14, 1971; 1954 ACS 84, p. 28, Eff. Sept. 18, 1975.

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R 285.623.22 Soybeans.

Rule 22. (1) Field standards for soybean seed shall be as follows:

Factor	Maximum Each Class	
	Foundation	Certified
Other varieties	.05%	.10%
Inseparable seed plants:		
Corn (with kernels) and others	none	none

(2) Seed standards for soybean seed shall be as follows:

Factor	Classes of Seed	
	Foundation	Certified
Pure seed (minimum)	98.5%	98.5%
Inert matter (maximum)	1.5%	1.5%
Weeds (maximum)	none	none
Other crops (maximum)	1 per 3 lbs.	1 per lb.
Other varieties—		
same crop (maximum)	.05%	.10%
Germination (minimum)		80.0%

History: 1954 ACS 68, p. 14, Eff. June 14, 1971; 1954 ACS 84, p. 27, Eff. Sept. 18, 1975.

R 285.623.23 Small grains.

Rule 23. (1) Field standards for small grain seed shall be as follows:

Factor	Maximum Each Class	
	Foundation	Certified
Other varieties	.02%	.05%
*Inseparable other crops	1 per acre	5 per acre
Bunt	none	none
**Other smuts	0.5%	2.0%

*No rye, vetch, or winter barley is permitted in wheat.

**Seed from fields having more than 0.5% other smuts shall be treated with a fungicide approved by the director.

(2) Rye shall be 650 feet from fields which would be a source of contamination.

(3) Seed standards for small grain seed shall be as follows:

Factor	Classes of Seed	
	Foundation	Certified
*Pure seed (minimum)	99.0%	99.0%
Inert matter (maximum)	1.0%	1.0%
Weeds (maximum)	2 per lb.	2 per lb.
Corn cockle, chess, and noxious weeds (maximum)	none	none
Other crops—no rye or vetch allowed (maximum)	1 per 2 lbs.	2 per lb.
Other varieties—same crop (maximum)	.02%	.05%
Germination (minimum)		90.0%
Except rye which shall be		80.0%

*Minimum pure seed percentage of rye is 98.0%; with inert matter a minimum of 2.0%.

History: 1954 ACS 68, p. 14, Eff. June 14, 1971; 1954 ACS 84, p. 27, Eff. Sept. 18, 1975; 1954 ACS 96, p. 67, Eff. Aug. 19, 1978.

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R 285.623.24 Red clover.

Rule 24. (1) Red clover seed shall be planted on land on which the same crop has not been previously grown for a minimum of 5 years for producing foundation seed and 2 years for producing certified seed. During the year immediately before seeding, the land shall be in a cultivated crop or fallow and shall be free of volunteer red clover plants as determined by field inspection. Manure or other contaminating amendments shall not be applied during the established and productive life of this stand.

(2) A portion of a field which is not to be inspected shall be mowed before flowering.

(3) Limitations on the age of stand and pedigree classes of seed through which a variety may be multiplied shall be specified by the originator, but shall not exceed those established by the certifying agency.

(4) Field standards for red clover seed shall be as follows:

Factor	Classes of Seed		
	Foundation		Certified
	Less than 5 acres	5 acres or more	
Other varieties (maximum)	none	none	0.2%
Sweet clover (maximum)	none	none	1 plant per acre
Isolation (from other red clover fields) (minimum)	900 ft.	900 ft.	165 ft.

(5) Seed standards for red clover seed shall be as follows:

Factor	Classes of Seed	
	Foundation	Certified
Pure seed (minimum)	99.0%	99.0%
Inert matter (maximum)	1.0%	1.0%
Weeds (maximum)	0.15%	0.2%
Prohibited noxious (maximum)	none	none
Docks, sheep sorrel and restricted noxious (maximum)	9 per lb.	45 per lb.
Other crops (maximum)	18 per lb.	0.2%
Sweet clover (maximum)	9 per lb.	45 per lb.
Other varieties (maximum)	0.1%	1.0%
Germination and hard seed (minimum)		85.0%

History: 1954 ACS 68, p. 15, Eff. June 14, 1971; 1954 ACS 84, p. 28, Eff. Sept. 18, 1975; 1954 ACS 96, p. 67, Eff. Aug. 19, 1978.

R 285.623.25 Birdsfoot trefoil.

Rule 25. (1) Birdsfoot trefoil seed shall be planted on land on which the same crop has not been previously grown for a minimum of 5 years for producing foundation seed and 2 years for producing certified seed. During the year immediately before seeding, the land shall have been in a cultivated crop or fallow and shall be free of volunteer birdsfoot trefoil plants as determined by field inspection. Manure or other contaminating amendments shall not be applied during the established and productive life of the stand.

(2) A portion of a field which is not to be inspected shall be mowed before flowering.

(3) Limitations on the age of stand and pedigree classes of seed through which a variety may be multiplied shall be specified by the originator, but shall not exceed those established by the certifying agency.

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(4) Field standards for birdsfoot trefoil seed shall be as follows:

Factor	Classes of Seed: Foundation, Less than 5 acres	Foundation, 5 acres or more	Certified, Less than 5 acres	Certified, 5 acres or more
Other varieties (maximum)	0.1%	0.1%	0.2%	0.2%
Sweet clover (maximum)	none	none	1 plant per acre	1 plant per acre
Isolation from flowering plants of other varieties or uninspected plants (minimum)	900 ft.	600 ft.	330 ft.	165 ft.
Isolation between different seed classes of the same variety (minimum)	225 ft.	105 ft.	85 ft.	45 ft.

(5) Seed standards for birdsfoot trefoil seed shall be as follows:

Factor	Classes of Seed: Foundation	Certified
Pure seed (minimum)	98.0%	98.0%
Inert matter (maximum)	2.0%	2.0%
Weeds (maximum)	0.1%	0.2%
Prohibited noxious (maximum)	none	none
Docks, sheep sorrel, and restricted noxious (maximum)	27 per lb.	45 per lb.
Other crops (maximum)	0.1%	0.2%
Other varieties (maximum)	0.1%	1.0%
Sweet clover (maximum)	9 per lb.	45 per lb.
Germination (minimum)		80.0%
Germination less hard seed (minimum)		45.0%

History: 1954 ACS 88, p. 15, Eff. June 14, 1971; 1954 ACS 98, p. 68, Eff. Aug. 19, 1978.

R 285.623.26 Crownvetch.

Rule 26. (1) Crownvetch seed shall be planted on land on which the same crop has not been previously grown for a minimum of 5 years for producing foundation seed and 2 years for producing certified seed. During the year immediately before seeding, the land shall have been in a cultivated crop or fallow and shall be free of volunteer crownvetch plants as determined by field inspection. Manure or other contaminating amendments shall not be applied during the established and productive life of the stand.

(2) A portion of a field which is not to be inspected shall be mowed before flowering.

(3) Limitations on the age of stand and pedigree classes of seed through which a variety may be multiplied shall be specified by the originator, but shall not exceed those established by the certifying agency.

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(4) Field standards for crownvetch seed shall be as follows:

Factor	Classes of Seed: Foundation, Less than 5 acres	Foundation, 5 acres or more	Certified, Less than 5 acres	Certified, 5 acres or more
Other varieties (maximum)	1 plant per acre	1 plant per acre	5 plants per acre	5 plants per acre
Sweet clover (maximum)	none	none	1 plant per acre	1 plant per acre
Isolation from flowering plants of other varieties or uninspected plants (minimum)	900 ft.	600 ft.	330 ft.	165 ft.
Isolation between different seed classes of the same variety (minimum)	225 ft.	150 ft.	85 ft.	45 ft.

(5) Seed standards for crownvetch seed shall be as follows:

Factor	Classes of Seed: Foundation	Certified
Pure seed (minimum)	98.0%	98.0%
Inert matter (maximum)	2.0%	2.0%
Weeds (maximum)	0.1%	0.5%
Prohibited noxious (maximum)	none	none
Restricted noxious (maximum)	27 per lb.	45 per lb.
Other crops (maximum)	0.1%	0.1%
Sweet clover (maximum)	9 per lb.	45 per lb.
Other varieties of the same crop (maximum)	0.1%	1.0%
Germination (minimum)		65.0%
Germination less hard seed (minimum)		35.0%

History: 1954 ACS 68, p. 16, Eff. June 14, 1971; 1954 ACS 84, p. 28, Eff. Sept. 18, 1975; 1954 ACS 98, p. 69, Eff. Aug. 19, 1978

R 285.623.27 Foundation corn; inbred lines.

Rule 27. (1) An inbred line is a relatively true breeding strain of corn resulting from at least 5 successive generations of controlled self-fertilization with selection.

(2) Inbred increase fields shall be isolated by at least 50 rods from other corn of like color or texture and by at least 80 rods from corn of a different color or texture. However, the isolation shall not apply when increase is by hand-pollination.

(3) Inbred lines are eligible for certification when used in the production of certified hybrids.

(4) Sources of inbred seed used in the production of inbred lines shall be the Michigan agricultural experiment station and other state agricultural experiment stations, the United States department of agriculture and such other sources of inbred lines as are acceptable to the official certifying agency and approved by the Michigan experiment station and the director of the department of agriculture.

(5) Fields shall be inspected by the certifying agency at least 4 times during the pollinating period. Roguing for off-type plants shall be performed before any pollen discharge. An inbred field having more than 0.1% definitely off-type plants or more than 1.0% of doubtful-type plants shall not be certified.

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(6) A seed lot of an inbred line shall not have more than 0.1% definitely off-type ears or more than 0.2% ears with off-color kernels as determined by ear inspection or winter grow out test.

History: 1954 ACS 68, p. 16, Eff. June 14, 1971.

R 285.623.28 Foundation corn; single cross hybrids.

Rule 28. (1) A single cross hybrid shall consist of the first generation of a cross between 2 certified inbred lines.

(2) A single cross crossing field shall be isolated by at least 50 rods from other corn of like color or texture and 80 rods from corn of a different color or texture.

(3) The following field inspection standards shall be complied with:

(a) Fields shall be inspected by the certifying agency at least 4 times during the pollinating period.

(b) Seed parent plants capable of producing viable pollen should be detasseled.

(c) When 5% or more of the seed parent plants in a crossing field have apparently receptive silks, the field is ineligible for certification if shedders are in excess of 0.5% on any 1 inspection or exceed an accumulative total of more than 1.0% for any 3 consecutive inspections.

(d) A shedder shall be a seed parent plant having more than 1 lineal inch of tassel area with anthers shedding pollen.

(e) One or more seed parents growing in the same isolation and having in excess of 5% apparently receptive silks are ineligible for certification if 1 or more of the seed parents have over 0.5% shedders unless the plants in the area having excess receptive silks are destroyed.

(f) Roguing for off-type plants shall be performed before the time of pollen discharge.

(g) A crossing field in which more than 0.1% definitely off-type plants or more than 1.0% doubtful-type plants in the pollen parent have shed pollen shall not be certified.

(h) At the time of the last inspection the seed parent in a crossing field shall not contain more than 0.1% definitely off-type plants or 1.0% of doubtful-type plants.

(4) A seed lot of a single cross hybrid shall not have more than 0.1% definitely off-type ears or more than 0.2% ears with off-color kernels as determined by ear inspection or winter grow out test.

History: 1954 ACS 68, p. 17, Eff. June 14, 1971.

R 285.623.29 Commercial single cross, double cross, and 3-way hybrids.

Rule 29. (1) A double cross hybrid is the first generation of a cross between 2 single cross hybrids. A 3-way cross hybrid is the first generation of a cross between a single cross hybrid and an inbred line.

(2) A certified double cross or 3-way corn hybrid shall be produced from foundation seed (single cross or inbreds or both) which has been produced under inspection of the official seed-certifying agency or a seed-producing agency recommended by the Michigan experiment station together with the official certifying agency and approved by the director of the department of agriculture.

(3) The following isolation standards shall be complied with:

(a) A crossing field shall be so located that the seed parent is at least 40 rods from corn of a different color or texture. When the contaminating source is the same color or texture the distance can be modified by the size of the crossing field and by planting border rows of pollen parent in accordance with the following table:

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	Field Size in Acres					
	9 or less	10-19	20-29	30-39	40 or more	Minimum Border Rows
Distance	40	38	36	34	33	2
(in rods)	35	33	31	29	28	4
of seed	30	28	26	24	23	6
rows	25	23	21	19	18	8
from	20	18	16	14	13	10
other	15	13	11	10	10	12
corn	10	9	7	4	4	14

(b) Border rows to offset lack of isolation distance shall be planted adjacent to the exposed side or sides of the crossing field and shall produce an abundance of viable pollen at the time the seed parent silks are receptive.

(c) Insufficient isolation distance can be offset by destroying a portion of the seed parent in a manner and at a time specified by the official certifying agency.

(d) Two or more hybrids may be produced in the same field if the same pollen parent is used.

(4) The following field inspection standards shall be complied with:

(a) The standards in this rule apply only when 5% or more of the seed parent plants have apparently receptive silks.

(b) Crossing fields shall be inspected by the official certifying agency at least 3 times during the pollinating period.

(c) A crossing field is ineligible if shedders, as defined in R 285.623.28(3)(d) are in excess of 1% at any 1 inspection or if an accumulative total of more than 2% shedders is found on any 3 consecutive inspections.

(d) Off-type plants shall be removed before pollen discharge.

(e) Corn harvested from crossing fields found to be ineligible for certification shall not be sold for seed purposes.

(5) The following seed inspection standards shall be complied with:

(a) Samples for moisture and germination determination shall be furnished to the official certifying agency after the seed has been dried and shelled by the producer.

(b) Seed shall have a moisture content of less than 14%, a minimum germination of 90% and a minimum purity of 99.0%.

History: 1954 ACS 68, p. 17, Eff. June 14, 1971.

REGULATION NO. 624. SEED POTATO CERTIFICATION

R 285.624.1, R 285.624.2 Rescinded.

History: 1954 ACS 23, pp. 15-17, Eff. Aug. 12, 1960; rescinded 1954 ACS 44, p. 29, Eff. Nov. 14, 1965.

REGULATION NOS. 625, 626. WEED KILLERS IN GRAPE VINEYARDS

R 285.625, R 285.626 Expired.

History: 1954 ACS 27, pp. 7, 8, Eff. May 15, 1981; expired Oct. 1, 1981.

REGULATION NO. 627. CARE OF NURSERY STOCK IN SALES OUTLETS

(By authority conferred on the commission of agriculture by sections 9, 176, and 178 of Act No. 380 of the Public Acts of 1965, and Act No. 189 of the Public Acts of 1931, as amended, being §§16.109, 16.276, 16.278, and 286.201 et seq. of the Michigan Compiled Laws)

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R 285.627.1 Definitions.

Rule 1. As used in these rules:

(a) "Balled stock" means nursery stock removed from the growing site with a portion of the root system intact in a ball of the soil in which the plant was grown, the diameter and depth of such soil ball to be as specified in the publication entitled "American Standards for Nursery Stock," dated February 1, 1973, which is published by, and available from, the American Association of Nurserymen, 230 Southern Building, Washington, D.C. 20005, at a cost of $2.00. The publication may also be inspected at, or obtained from, the Michigan Department of Agriculture, Plant Industry Division, Lewis Cass Building, Post Office Box 30017, Lansing, Michigan 48909; the cost, when obtained from the department, is $2.00.

(b) "Container-grown stock" means nursery stock grown in a container, with a root system completely established in soil or other growing media.

(c) "Manufactured ball" means a bound ball of soil or other growing media in which the roots of nursery stock have been placed with the intended purpose of establishing a root system in the media.

(d) "Packaged nursery stock" means nursery stock prepared for merchandising with the roots wrapped in a moisture-holding media, other than soil, with no intention of establishing a root system in the media.

(e) "Potted stock" means nursery stock offered for sale with the root system in soil and in a rigid or semi-rigid container in which the plant was not grown and established.

History: 1954 ACS 31, p. 13, Eff. Aug. 14, 1962; 1954 ACS 92, p. 12, Eff. July 15, 1977.

R 285.627.2 Storage and display conditions.

Rule 2. (1) Balled stock, container-grown stock, potted stock, and nursery stock with manufactured balls shall be kept uniformly moist by surrounding or covering the root area with nontoxic, moisture-holding materials, or by irrigation sufficient to maintain the viability and vigor of the stock, and shall be kept under temperature and light intensity conditions that permit normal growth. Balled stock and stock with manufactured balls, displayed or stored on pavement or a similar moisture-impervious surface, shall be separated from that surface by at least a 4-inch layer of, or shall be surrounded by, peat, sawdust, shingletow, soil, or other similar moisture-holding material, which shall be kept moist at all times, or shall be kept under other conditions that will assure maintenance of moisture in the ball sufficient to preserve the vigor of the plant.

(2) Bare-root nursery stock shall be kept under conditions of temperature and moisture that maintain viability. Moisture shall be supplied to the root system by high humidity conditions in storage or by covering the roots with soil, sawdust, peat, shingletow, or other moisture-holding material not toxic to plants, which covering shall be kept moist at all times.

(3) Packaged nursery stock shall be stored and displayed under conditions that preserve the vitality of the plant and insure an adequate supply of moisture to the roots at all times.

History: 1954 ACS 31, p. 13, Eff. Aug. 14, 1962; 1954 ACS 92, p. 12, Eff. July 15, 1977.

R 285.627.3 Minimum indices of vitality.

Rule 3. (1) Woody stemmed deciduous nursery stock, such as fruit and shade trees, rose bushes, and flowering shrubs, shall have moist, green cambium tissue in the stem or stems and branches, and shall have viable buds or normal green, unwilted growth sufficient to permit the plant to live and grow in a form characteristic of the species or variety when planted and given reasonable care. In

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the case of a rose bush, each stem shall show moist, green, undamaged cambium in at least the first 8 inches above the graft. Any single stem on a rose bush not meeting this specification shall disqualify the entire plant. However, a rose bush may be pruned to comply with this specification if at least 1 stem meeting the specification remains and the grade designation, if sold by grade, is changed accordingly. A packaged rose bush having more than 3 inches of etiolated growth from a bud shall not be sold or offered for sale.

(2) Hardy herbaceous biennials or perennials, when in a wilted, rotted, or similar condition indicative of subnormal vitality, shall not be sold or offered for sale.

(3) Nursery stock in a weakened condition, as evidenced by die-back or desiccation of foliage, or balled stock with broken or loose earthballs, broken manufactured balls, or root systems of a size smaller than established by the American standard for nursery stock, shall not be sold or offered for sale. Packaged nursery stock, potted stock, and nursery stock with manufactured balls shall meet the root spread standards established for bare-root stock.

(4) Nursery stock on display at sales outlets not meeting the foregoing minimum indices of vitality shall be restricted from sale and shall be removed from public view by the owner or person in charge.

History: 1954 ACS 31, p. 13, Eff. Aug. 14, 1962; 1954 ACS 92, p. 13, Eff. July 15, 1977.

REGULATION NO. 628. SEED POTATO CERTIFICATION

(By authority conferred on the commission of agriculture by section 2 of Act No. 221 of the Public Acts of 1959 and section 178 of Act No. 380 of the Public Acts of 1965, being §§286.72 and 16.278 of the Michigan Compiled Laws)

R 285.628.1 Definitions.

Rule 1. As used in these rules:

(a) "Seed potatoes eligible for certification" means potato varieties that the department of agriculture has listed in its published list of seeds eligible for certification under the provisions of section 4 of Act No. 221 of the Public Acts of 1959, as amended, being §286.74 of the Michigan Compiled Laws.

(b) "Certifiable seed potatoes" means seed potatoes eligible for certification as premier foundation, foundation, or certified seed that meet or exceed the standards established herein and are produced and stored as required by these rules.

(c) "Premier foundation seed" means the progeny of seed potatoes produced in a program of hill selection and clonal increase approved by the certifying agency.

(d) "Foundation seed" means the progeny of premier foundation seed or the progeny of foundation seed that meets all requirements for premier foundation seed, except the program of hill selection and clonal increase, when premier foundation seed is not available to a producer.

(e) "Certified seed" means the progeny of foundation seed or the progeny of seed produced in another state that is certified as foundation or better by an official seed-certifying agency in the other state using similar standards as herein established.

(f) "Seed lot" means all the seed potatoes of the same variety in or harvested from a field or stored together in a storage facility.

History: 1954 ACS 44, p. 28, Eff. Nov. 14, 1965; 1954 ACS 48, p. 14, Eff. Nov. 14, 1966; 1954 ACS 78, p. 18, Eff. Jan. 8, 1974.

Editor's note: Former Regulation No. 628, pertaining to weed killers in grape vineyards and deriving from 1954 ACS 31, p. 14, Eff May 1, 1962, expired by its own terms on October 1, 1962.

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R 285.628.2 Designation of official seed-certifying agency.

Rule 2. The Michigan crop improvement association is designated as the official seed-certifying agency of the department of agriculture for the purpose of assisting and advising the department in carrying out the provisions of Act No. 221 of the Public Acts of 1959, as amended, being §§286.71 to 286.75 of the Michigan Compiled Laws, and these rules.

History: 1954 ACS 44, p. 28, Eff. Nov. 14, 1965; 1954 ACS 56, p. 7, Eff. Nov. 14, 1968; 1954 ACS 66, p. 8, Eff. Dec. 31, 1970; 1954 ACS 78, p. 19, Eff. Jan. 8, 1974.

R 285.628.3 Application.

Rule 3. A person may apply for certification of seed potatoes eligible for certification by filing a written application with the official seed-certifying agency on or before June 10 of each year.

History: 1954 ACS 78, p. 19, Eff. Jan. 8, 1974.

R 285.628.4 Conditions for certification.

Rule 4. A seed lot eligible for certification shall not be certified if any of the following conditions exist:

(a) Less than all acreage of the variety grown by the applicant is planted to premier foundation, foundation or certified seed and entered for inspection.

(b) The lot is planted less than 5 feet from other potatoes.

(c) The lot is grown in a field in which weeds, insect injury, spray damage, disease or any other factors that prevent adequate inspection or the production of certifiable seed potatoes are present.

(d) The lot is planted on land that has been exposed to infection from bacterial ring rot during the preceding growing season if for certified seed, and the preceding 2 growing seasons if for premier foundation or foundation seed potatoes, or the lot has been exposed to bacterial ring rot infection prior to, during or after being harvested.

(e) The lot is stored, graded or handled in storage facilities containing potatoes which were not field inspected or potatoes rejected for the presence of bacterial ring rot.

(f) Severe late blight, frost injury or any other condition that renders the lot undesirable for use as seed is present.

(g) Bacterial ring rot is present in the lot.

History: 1954 ACS 78, p. 19, Eff. Jan. 8, 1974.

R 285.628.5 Official seed-certifying agency; duties.

Rule 5. The official seed-certifying agency shall:

(a) Make 2 or more inspections of all fields of seed potatoes eligible for certification as foundation or certified seed and 3 or more inspections of all fields of seed potatoes eligible for certification as premier foundation seed, for which an application for such certification has been made, at times when plant growth and other conditions are optimum for varietal identification and disease expression.

(b) Make at least 1 digging time and 1 bin inspection of premier foundation and foundation seed lots previously approved on field inspection.

(c) Make at least 1 tuber inspection of certified seed lots previously approved on field inspections.

(d) Inspect storage facilities for certifiable seed potatoes.

(e) Collect or cause to be collected representative tuber samples of certifiable seed potatoes for winter testing and such other tests as may be required for certification.

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(f) Issue certification tags for each container or bulk shipment of certifiable potatoes or upon request by an applicant, who has sold seed potatoes that must be shipped prior to the winter test results being known which are otherwise certifiable, issue certification tags for each container or bulk shipment that contains the statement that the potatoes were certified prior to the winter test results.

History: 1954 ACS 78, p. 19, Eff. Jan. 8, 1974.

R 285.628.6 Premier foundation and foundation seed.

Rule 6. Seed lots of premier foundation and foundation seed shall not be certified as such if any of the following exist:

(a) Less than all of the potato acreage on the farm producing such lots was planted with seed that had been certified.

(b) The following field inspection tolerances for diseases and varietal mix are exceeded:

Virus Diseases	First Inspection	Second Inspection	Third Inspection (Premier Foundation)
Leaf roll	0.25%	0.10%	0.05%
Mosaics	0.50%	0.25%	0.25%
Spindler tuber	0.25%	0.10%	0.10%
Yellow dwarf	0.01%	0.01%	None
Aggregate for above virus diseases	0.50%	0.25%	0.25%
Other Diseases			
Wilt	0.50%	0.50%	0.50%
Bacterial ring rot	None	None	None
Varietal mixture	0.10%	0.01%	0.01%

(c) The digging time or bin inspection discloses any distinguishable varietal mixture or more than 3% characteristic wilt discoloration in such lots.

(d) The tuber samples that are winter tested exceed the disease tolerances for virus leaf roll, rugose mosaics, spindle tuber and yellow dwarf which shall be an aggregate 2% for premier foundation and an aggregate 3% for foundation.

History: 1954 ACS 78, p. 20, Eff. Jan. 8, 1974.

R 285.628.7 Certified seed.

Rule 7. Seed lots of certified seed shall not be certified as such if any of the following exist:

(a) The following field inspection tolerances for diseases and varietal mix are exceeded:

Virus Diseases	First Inspection	Second Inspection
Leaf roll	1.00%	0.50%
Mosaics	2.00%	1.00%
Spindle tuber	1.00%	0.50%
Yellow dwarf	0.05%	0.05%
Aggregate for above virus diseases	2.00%	1.00%
Other Diseases		
Wilt	1.00%	1.00%
Bacterial ring rot	None	None
Varietal mixture	0.10%	0.10%

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(b) The tuber inspection of seed lots discloses more than 0.10% distinguishable varietal mixture or more than 5% characteristic wilt discoloration.

(c) The tuber samples that are winter tested commencing in 1974 and each year thereafter exceed the tolerance of an aggregate of 6% for virus leaf roll, rugose mosaics, spindle tuber and yellow dwarf.

History: 1954 ACS 78, p. 20, Eff. Jan. 8, 1974.

R 285.628.8 Storage and equipment.

Rule 8. All equipment and storage facilities shall be thoroughly cleaned and disinfected with materials and by methods specified by the certifying agency and approved by the Michigan agricultural experimental station. Storage facilities in which premier foundation and certified seed are stored may contain only lots of potatoes that have passed field inspection or have been rejected for reasons other than exposure to or infection by bacterial ring rot if such lots are isolated from the certifiable seed potatoes.

History: 1954 ACS 78, p. 21, Eff. Jan. 8, 1974.

R 285.628.9 Shipping inspection.

Rule 9. The federal-state inspection service shall inspect at shipping time all certified seed lots for which certification tags have been issued to determine the grade of such lots and may also inspect premier foundation or foundation seed lots at that time to determine the grade of such lots. The official seed-certifying agency shall inspect all other premier foundation and foundation seed lots for which certification tags have been issued at shipping time to determine the grade of such lots.

History: 1954 ACS 78, p. 21, Eff. Jan. 8, 1974.

R 285.628.10 Shipping containers; bulk shipments.

Rule 10. Seed potatoes, except those shipped in bulk, when sold shall be packed in new, clean, unused containers and sealed as required by the certifying agency and approved by the director of agriculture. Containers for bulk shipment shall be properly cleaned. A certificate for bulk shipment issued by the certifying agency shall accompany each shipment in bulk. Seed potatoes for foreign export shall be packaged to comply with the requirements of the importing country.

History: 1954 ACS 78, p. 21, Eff. Jan. 8, 1974.

R 285.628.11 Grades and sizes.

Rule 11. Except as hereinafter provided, grades and sizes shall conform to the United States standards for grades of seed potatoes effective April 28, 1972, and available from the United States Department of Agriculture, Agricultural Marketing Service, Washington, D.C., or the Michigan Department of Agriculture, Lansing:

(a) Blue tag grade shall meet the requirements of the United States no. 1 seed potato grade except the allowance for sprouts may be exceeded after March 15 on seed potatoes grown the previous year if so specified by the seller, and after March 15 following the year of production pressure bruises will be allowed if not causing serious damage. Size shall be not less than 1⅛ inches nor more than 3¼ inches in diameter or 12 ounces in weight. Nematode injury means injury from root knot nematode or the presence of or injury from golden nematode or tuber rot nematode.

(b) Green tag grade shall meet the requirements of blue tag grade except the size shall be not less than 1¼ inches nor more than 3¾ inches in diameter or 16 ounces in weight.

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(c) Red tag grade shall be as agreed between seller and purchaser as to size and defects, except that damage by dry or moist fusarium type tuber rot shall not exceed 5% including not more then 2% serious damage by dry or moist fusarium type tuber rot and not more than 1% soft rot or wet breakdown.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965; 1954 ACS 66, p. 9, Eff. Dec. 31, 1970; 1954 ACS 78, p. 21, Eff. Jan. 8, 1974.

R 285.628.12 Grading.

Rule 12. Premier foundation seed shall be graded to comply with the Michigan blue tag grade. Foundation seed shipped interstate shall be graded to comply with the Michigan blue tag grade except that maximum size shall not exceed 3¼ inches in diameter or 14 ounces in weight. Foundation seed sold intrastate may be graded according to agreement between seller and purchaser as to size and defects.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965; 1954 ACS 48, p. 14, Eff. Nov. 14, 1966; 1954 ACS 56, p. 7, Eff. Nov. 14, 1968; 1954 ACS 66, p. 9, Eff. Dec. 31, 1970; 1954 ACS 78, p. 21, Eff. Jan. 8, 1974.

R 285.628.13 Modification of standards.

Rule 13. The director of the department of agriculture may modify the standards established herein for certifiable seed when due to weather, disease or any other factor the application of the standards would threaten the normal propagation of potato variety.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965; 1954 ACS 48, p. 14, Eff. Nov. 14, 1966; 1954 ACS 78, p. 21, Eff. Jan. 8, 1974.

R 285.628.14 Digging and bin inspection.

Rule 14. At least 1 digging time and 1 bin inspection shall be made on lots approved on field inspection. Lots of potatoes with the following defects shall not be approved as foundation seed:

(a) Severe late blight, frost injury, soft rot or any other condition that renders the lot undesirable for use as seed.

(b) Any distinguishable varietal mixture.

(c) More than 3% characteristic wilt discoloration.

(d) Bacterial ring rot.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965.

R 285.628.15 Shipping inspection.

Rule 15. Inspections shall be made by the official certifying agency.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965.

R 285.628.16 Grading.

Rule 16. Seed sold shall be graded according to agreement between seller and buyer.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965.

R 285.628.17 Test samples.

Rule 17. Representative tuber samples of premier foundation and foundation seed shall be collected and submitted for such tests as the certifying agency may require and shall consist of the following:

(a) One properly identified tuber from each hill selected from a variety for premier foundation seed.

(b) A representative sample of at least 300 tubers (1¼ inches to 2 inches) of each variety of foundation seed.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965; 1954 ACS 48, p. 14, Eff. Nov. 14, 1966; 1954 ACS 66, p. 9, Eff. Dec. 31, 1970.

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R 285.628.21 Eligible planting stocks and isolation.

Rule 21. (1) Certified seed potatoes shall be the progeny of foundation seed produced in accordance with the provisions of these rules. Seed certified as foundation or better by an out-of-state certifying agency is eligible as planting stock if approved by the certifying agency.

(2) A planting of a variety submitted for certification shall be at least 5 feet from any other potatoes.

History: 1954 ACS 44, p. 27, Eff. Nov. 14, 1965; 1954 ACS 48, p. 14, Eff. Nov. 14, 1966; 1954 ACS 66, p. 10, Eff. Dec. 31, 1970.

R 285.628.22 Field inspection tolerances.

Rule 22. Field inspection tolerances shall be as follows:

Virus Diseases	First Inspection	Second Inspection
Leaf roll	1.00%	0.50%
Mosaics	2.00%	1.00%
Spindle tuber	1.00%	0.50%
Yellow dwarf	0.05%	0.05%
Aggregate for above virus diseases	2.00%	1.00%
Other Diseases		
Wilt	1.00%	1.00%
Bacterial ring rot	none	none
Varietal mixture	0.10%	0.10%

History: 1954 ACS 44, p. 28, Eff. Nov. 14, 1965.

R 285.628.23 Tuber inspection.

Rule 23. (1) At least 1 tuber inspection shall be made by the certifying agency of those lots of potatoes approved in field inspection.

(2) Potatoes grown for certification shall be stored under conditions which insure freedom from mixture with uncertified stock.

(3) Lots of potatoes with the following defects shall be refused certification:

(a) Severe late blight, frost injury, soft rot, or any other condition that renders the lot undesirable for seed.

(b) More than 0.1% distinguishable varietal mixture.

(c) More than 5% characteristic wilt discoloration.

(d) Bacterial ring rot.

History: 1954 ACS 44, p. 28, Eff. Nov. 14, 1965.

R 285.628.24 Shipping inspection.

Rule 24. A shipping-time inspection by the federal-state inspection service shall be required to determine conformity with the grades prescribed by these rules.

History: 1954 ACS 44, p. 28, Eff. Nov. 14, 1965.

R 285.628.25 Grades.

Rule 25. Grades shall conform to the following designated "U.S." grades, as promulgated by the United States department of agriculture, effective July 15, 1958, except that sunburn will be permitted in all grades:

(a) Michigan blue tag grade shall meet the requirements of U.S. no. 1 grade.

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(b) Michigan red tag grade shall meet the requirements of U.S. no. 2 grade as to freezing injury, soft rot, wet breakdown, and dry rot, but meet the requirements of an agreement between seller and purchaser as to size and defects.

History: 1954 ACS 44, p. 28, Eff. Nov. 14, 1965; 1954 ACS 66, p. 10, Eff. Dec. 31, 1970.

R 285.628.26 Size.

Rule 26. (1) The minimum size or range of size may be specified with the grade in terms of diameter or weight of the individual potato, or in accordance with 1 of the following classifications:

(a) Size A:

(i) For round or intermediate shaped varieties, such as Irish Cobbler, Katahdin, Sebago, Pontiac, Kennebec, Green Mountain, or other similar varieties, the diameter of each potato shall be not less than 1⅞ inches, and not less than 60% of the potatoes in the lot shall be 2¼ inches or larger. The maximum size for Michigan certified blue tag seed shall be not over 3¼ inches. For the green and white tag grades the maximum size shall be 3¾ inches.

(ii) For long varieties such as Russet Burbank, Early Gem, White Rose, or other similar varieties each potato shall not be less than 1⅞ inches in diameter or more than 12 ounces in weight and not less than 40% of the potatoes in the lot shall be 6 ounces or more in weight.

(b) Size B: For all varieties the potatoes shall be from 1¼ to 2¼ inches in diameter, inclusive.

(c) Size C: For all varieties the potatoes shall be from 1 inch to 1½ inches in diameter, inclusive.

(2) Diameter means the greatest dimension at right angles to the longitudinal axis.

(3) Lot tolerances by weight for all grades shall be:

(a) 3% for sizes below 2¼-inch minimum.

(b) 5% for sizes 2¼-inch and larger minimum.

(c) 10% above any maximum specified.

(d) When a percentage of the potatoes is specified to be of a certain size and larger, individual packages containing 15 pounds or less shall have not less than ½ of the percentage specified and individual packages containing more than 15 pounds shall have not less than ¾ of the percentage specified.

History: 1954 ACS 44, p. 28, Eff. Nov. 14, 1965; 1954 ACS 48, p. 15, Eff. Nov. 14, 1966.

R 285.628.27 Rescission.

Rule 27. Department of agriculture regulation no. 624, as amended, being R 285.624 to R 285.626 of the Michigan Administrative Code, is rescinded.

History: 1954 ACS 44, p. 29, Eff. Nov. 14, 1965.

REGULATION NO. 629. WEED KILLERS IN GRAPE VINEYARDS

R 285.629 Expired.

History: 1954 ACS 31, p. 15, Eff. May 1, 1962; expired Oct. 1, 1962.

REGULATION NOS. 630, 631. WEED KILLERS IN GRAPE VINEYARDS

R 285.630, R 285.631 Expired.

History: 1954 ACS 35, pp. 38, 39, Eff. May 1, 1963; 1954 ACS 43, p. 12, Eff. May 1, 1965, expired Oct. 1, 1965.

REGULATION NO. 632. ECONOMIC POISONS APPLICATORS

R 285.632.1—R 285.632.6 Rescinded.

History: 1954 ACS 68, p. 19, Eff. June 14, 1971; rescinded 1954 ACS 89, p. 13, Eff. Nov. 12, 1976.

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REGULATION NO. 633. RESTRICTED USE PESTICIDES

(By authority conferred on the director of the department of agriculture by section 19 of Act No. 171 of the Public Acts of 1976, being §286.569 of the Michigan Compiled Laws)

R 285.633.1 Definitions.

Rule 1. (1) The terms defined in the act have the same meaning when used in these rules.

(2) "Act" means Act No. 171 of the Public Acts of 1976, being §286.551 et seq. of the Michigan Compiled Laws.

(3) "Domestic use" means application of a pesticide directly to humans or pets, or application of a pesticide in, on, or around all structures, vehicles, or areas associated with the household or home life, patient care areas of health-related institutions, or areas where children spend time.

History: 1954 ACS 71, p. 19, Eff. Mar. 23, 1972; 1954 ACS 95, p. 30, Eff. Apr. 11, 1978.

R 285.633.2 Restricted use pesticides.

Rule 2. (1) The director has determined that the following formulations, when used as pesticides, are serious hazards to man, warm blooded animals, or to the environment when used under normal accepted conditions of use and, therefore, are restricted use pesticides:

Active Ingredient	Formulation	Use Pattern
Acrolein	As sole active ingredient.	All uses.
Acrylonitrile	In combination with carbon tetrachloride.	All uses.
Aldicarb	As sole active ingredient.	Ornamental uses (indoor and outdoor).
Aldrin	All formulations.	All uses.
Allyl Alcohol	All formulations.	All uses.
Aluminum Phosphide	As sole active ingredient.	All uses.
Arsenicals	Inorganic insoluble (50% and above as the compound), including calcium arsenate, lead arsenate, magnesium arsenate, paris green.	All uses.
	Inorganic soluble including arsenic trioxide above 1.5% sodium arsenite above 2%, and sodium arsenate above 5%.	
Avitrol	All formulations.	All uses.
Azinphos Methyl	All liquids with a concentration greater than 13.5%.	All uses.
	All dusts and wettable powders.	All uses except when packaged in water soluble packets.
Calcium Cyanide	As sole active ingredient.	All uses.
Carbofuran	All formulations at 40% active ingredient and above.	All uses.
	All formulations at 10% active ingredient.	All domestic uses.

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Active Ingredient	Formulation	Use Pattern
Carbon Disulfide	All formulations.	All uses.
Chloropicrin	All formulations above 2% active ingredient.	All uses.
Clonitralid	Wettable powder formulations.	All uses.
	As sole active ingredient in all formulations.	Molluscicide uses.
DDT	All formulations.	All uses.
Demeton	1% fertilizer formulation, 1.985% granular formulation.	All uses, including domestic uses.
	All granular formulations.	All uses.
	All emulsifiable products and solutions requiring dilution prior to use.	All uses.
Dicrotophos	All liquid formulations.	All uses.
Dieldrin	All formulations.	All uses.
Diquat Dibromide	All formulations.	All aquatic uses, except in small ponds such as farm ponds that have no outflow and are under the control of the user.
Disulfoton	All liquid formulations.	All uses.
	All granular formulations above 2% active ingredient.	Indoor use. Foliar and broadcast application to agricultural crops, except to seedbeds and transplant beds.
EPN	All formulations.	All uses.
Endrin	All formulations.	All uses.
Ethoprop	All formulations.	All uses.
Ethyl Parathion	All formulations.	All uses.
Ethylene Dibromide	As sole active ingredient or in combination with 1,3-dichloropropene, methyl bromide, chloropicrin, CC14, CS2, ethylene dichloride, methyl chloride, or sulfur dioxide.	Fumigant in an enclosed area.
	As sole active ingredient or in combination with lindane and chlordane.	Termite control.
Ethylene Dichloride	As sole active ingredient or in combination with CC14, ethylene dibromide, carbon disulfide, or sulfur dioxide.	All uses.
Fensulfothion	All liquid formulations.	All uses.
	Granular formulations 15% active ingredient and above.	All uses.
Fluoroacetamide/ 1081	All formulations.	All uses.
Fonofos	Liquid formulations at 44% active ingredient and above.	All uses.
Heptachlor	All formulations.	All uses.

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Active Ingredient	Formulation	Use Pattern
Hydrocyanic Acid	All formulations.	All uses.
Mercury	All formulations.	All uses.
Methomyl	As sole active ingredient in 1% to 2.5% baits, except 1% fly bait.	Nondomestic outdoor agricultural crops, ornamentals, and turf.
		All other registered uses.
	All solutions requiring dilution prior to use.	All uses.
	90% wettable powder formulations that are not in water soluble bags.	All uses.
Methyl Bromide	All formulations.	All uses.
Methyl Parathion	All formulations.	All uses.
Mevinphos	All emulsifiable and liquid products requiring dilution prior to use.	All uses.
	Psycodid filter fly liquid formulations.	All uses.
	2% dusts.	All uses.
Monocrotophos	Liquid formulations 40% active ingredient and above.	All uses.
Nicotine (Alkaloid and Sulfate)	Liquid formulations at 40% active ingredient (alkaloid).	All uses.
	Liquid formulations at 40% active ingredient (sulfate).	Domestic uses.
	14% smoke generator.	All uses.
Paraquat (Dichloride) and Paraquat Bis (Methyl Sulfate)	All formulations and concentrations except pressurized spray formulation containing .44% paraquat bis (methyl sulfate) and 15% petroleum distillates as active ingredients.	All uses.
Phorate	All formulations at 1.25% active ingredient and above.	All uses.
Phosacetim	All formulations.	All uses.
Phosphamidon	All liquid formulations.	All uses.
	All dust formulations in combination with naled.	All uses.
Phosphorus (Elemental)	All formulations.	All uses.
Picloram	All formulations and concentrations except formulations labeled only for trunk injection, girdling or stump treatment.	All uses.
Sodium Cyanide	All formulations.	All uses.
Sodium Fluoroacetate	All solutions and dry baits.	All uses.
Strychnine	All formulations.	All uses.
Sulfotepp	Sprays and smoke generators.	All uses.
TDE	All formulations.	All uses.
TEPP	Emulsifiable formulations requiring dilution prior to use.	All uses.

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Active Ingredient	Formulation	Use Pattern
Toxaphene	All liquid formulations.	Domestic uses.
	All formulations.	Aerial application.
		Direct application to aquatic environment.
		Application to field, fiber, and forage crops; deciduous fruit and nut crops.

(2) Notwithstanding any statement to the contrary, including statements on the labels or made by the manufacturer, a restricted use pesticide enumerated in these rules is declared to be restricted in relation to its purchase, distribution, sale, and use in this state.

(3) In addition to the pesticides enumerated in subrule (1), those pesticides classified by the environmental protection agency as restricted use in 40 C.F.R. §162.31 are adopted with all amendments as part of this rule. If there is conflict between restricted categories adopted as a result of inclusion in 40 C.F.R. §162.31 and the categories classified by these rules, the more restrictive rule shall prevail. Copies of the adopted matter may be obtained from the United States Environmental Protection Agency, Office of Pesticide Programs, Washington, D.C. 20460, at no cost, and from the Michigan Department of Agriculture, P.O. Box 30017, Lansing, Michigan 48909, at no cost.

History: 1954 ACS 71, p. 19, Eff. Mar. 23, 1972; 1954 ACS 95, p. 30, Eff. Apr. 11, 1978; 1954 ACS 96, p. 70, Eff. Aug. 19, 1978

R 285.633.3 Licenses; application.

Rule 3. (1) A person shall not sell, offer for sale, or otherwise distribute to the ultimate user a restricted use pesticide, unless a restricted use pesticide dealer's license is secured as provided in the act and these rules. A restricted use pesticide dealer shall sell those restricted pesticides as enumerated in R 285.633.2 only to users who exhibit full compliance with R 285.636.1 et seq. of the Michigan Administrative Code.

(2) A person in charge of each sales location or outlet shall apply, on a form prescribed by the director, for a license to sell restricted use pesticides for each location or outlet.

History: 1954 ACS 71, p. 20, Eff. Mar. 23, 1972; 1954 ACS 95, p. 33, Eff. Apr. 11, 1978.

R 285.633.4 License examinations.

Rule 4. (1) A person applying for a license to sell restricted use pesticides shall pass a written examination to determine his knowledge of the laws and rules governing the use and sale of pesticides and his responsibility in carrying on the business of a restricted use pesticides dealer. The examinations may be conducted at a time and place designated by the director. A score of 70 or above is required for passing. A score of less than 70 shall result in denial of a license.

(2) An applicant failing the examination may be granted a reexamination after an interview with a person or persons delegated by the director regarding his license application and a review of the examination.

History: 1954 ACS 71, p. 20, Eff. Mar. 23, 1972; 1954 ACS 95, p. 33, Eff. Apr. 11, 1978.

R 285.633.5 License renewals.

Rule 5. (1) A license expires on December 31 of each year and shall be renewed on or before January 1 of each year.

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(2) A license may be renewed, on a form prescribed by the director, without an examination if the applicant meets all the qualifications set forth in the act and these rules, unless an examination is required on amendments to the act or these rules which set forth different or additional qualifications. The director may at his discretion require the reexamination of an applicant who fails to renew his license by January 1.

(3) An examination is required if the business is operated by a person who has not previously been examined.

History: 1954 ACS 71, p. 20, Eff. Mar. 23, 1972; 1954 ACS 95, p. 34, Eff. Apr. 11, 1978.

R 285.633.6 Restrictions and conditions of sales.

Rule 6. (1) The following restricted use pesticides shall be sold only to certified applicators who can exhibit certification credentials substantiating they have been certified in the designated specific categories, subcategories, or method of application established in R 285.636.3 and R 285.636.5 of the Michigan Administrative Code:

(a) Avitrol—Subcategories (7)(a) or (1)(a) or category (8).
(b) Calcium cyanides—Subcategory (7)(a), category (8), or fumigation.
(c) DDT—Subcategory (7)(c) or category (8).
(d) Fluoroacetamide—Subcategory (7)(a) or category (8).
(e) Hydrocyanic acid—Subcategory (7)(a), category (8), or fumigation.
(f) Methyl bromide—Fumigation.
(g) Sodium cyanide—Subcategory (7)(a), category (8), or fumigation.
(h) Sodium fluoroacetate—Subcategory (7)(a) or category (8).
(i) Strychnine—Subcategory (7)(a) or category (8).

(2) A licensed restricted use pesticides dealer shall provide each purchaser of restricted use pesticides, in addition to the registered label instructions for handling, use, and safety precautions, any other information required by the director relating to safe use to avoid hazards to man and the environment.

History: 1954 ACS 71, p. 21, Eff. Mar. 23, 1972; 1954 ACS 95, p. 34, Eff. Apr. 11, 1978.

R 285.633.7 Dealers' records and reports of sales of pesticides.

Rule 7. A licensed dealer shall keep a record, on forms supplied by the director, of each sale of restricted use pesticides. Such record shall be transmitted to the director monthly, and shall be due in the office of the director not later than the fifteenth day of the month following the month of sale.

History: 1954 ACS 71, p. 21, Eff. Mar. 23, 1972; 1954 ACS 95, p. 34, Eff. Apr. 11, 1978.

REGULATION NO. 634. COMMERCIAL FERTILIZERS

(By authority conferred on the director of agriculture by section 15 of Act No. 198 of the Public Acts of 1975, being §286.765 of the Michigan Compiled Laws)

R 285.634.1 Fertilizers for agricultural crop production.

Rule 1. Additional plant nutrients, other than nitrogen, phosphorus, and potassium, claimed to be present in any form or manner in agricultural fertilizers, shall be guaranteed on the elemental basis at levels not less than the following:

Boron	0.125% minimum	Iron	0.10% minimum
Calcium	1.00% minimum	Molybdenum	0.04% minimum
Magnesium	1.00% minimum	Sulfur	1.00% minimum
Manganese	1.00% minimum	Zinc	0.50% minimum or as a chelate at 0.125%
Copper	0.50% minimum or as a chelate at 0.10%		

History: 1954 ACS 87, p. 13, Eff. May 5, 1976.

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R 285.634.2 Specialty fertilizers; micronutrient content.

Rule 2. Additional plant nutrients, other than nitrogen, phosphorus, and potassium, claimed to be present in any form or manner in specialty fertilizers, shall be guaranteed on the elemental basis at levels not less than the following:

Calcium	1.00%	Iron	0.10%
Magnesium	0.50%	Manganese	0.05%
Sulfur	1.00%	Molybdenum	0.0005%
Boron	0.02%	Zinc	0.05%
Copper	0.05%	Chlorine	0.10%

History: 1954 ACS 87, p. 13, Eff. May 5, 1976.

R 285.634.3 Placement of micronutrient guarantees on label.

Rule 3. Guarantees or claims for the additional plant nutrients listed in R 285.634.1 and R 285.634.2 are the only ones that will be accepted. Any of the elements guaranteed shall appear in the guaranteed analysis section of the label immediately following the guarantees for the primary nutrients of nitrogen, phosphorus, and potassium.

History: 1954 ACS 87, p. 13, Eff. May 5, 1976.

R 285.634.4 Slowly available plant nutrients.

Rule 4. (1) A fertilizer label shall not bear a statement that connotes or implies the presence of a slowly available plant nutrient, unless the nutrient is identified.

(2) When a fertilizer label implies or connotes that the nitrogen is slowly available through the use of words such as "organic," "organic nitrogen," "ureaform," "long lasting," or similar terms, the guaranteed analysis shall indicate the percentage of water insoluble nitrogen. This requirement shall not apply to manipulated animal and composted vegetable materials distributed as such and not mixed with other materials. The label shall not bear a reference to slowly available nitrogen when water insoluble nitrogen is less than 15% of the total nitrogen.

(3) The term "coated—slow release" may be accepted as descriptive of products and shall be allowed on labeling when the manufacturer can provide acceptable data substantiating the claim.

History: 1954 ACS 87, p. 13, Eff. May 5, 1976.

R 285.634.5 Specialty fertilizer labeling format.

Rule 5. The following information, if not appearing on the face or display side of a container in a readable and conspicuous form, shall occupy at least the upper third of a side of the container and shall be considered the label:

(a) Net weight.

(b) Brand name and grade.

(c) Guaranteed analysis:

Total nitrogen (N) ..... _____%

_____% Ammoniacal nitrogen (if claimed)

_____% Nitrate nitrogen (if claimed)

_____% Water insoluble nitrogen, (required when terms described in R 285.634.4 are used)

Available phosphoric acid (P_2O_5) ..... _____%

Soluble potash (K_2O) ..... _____%

Additional plant nutrients

(d) Sources of nutrients when shown.

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(e) Potential acidity or basicity in terms of calcium carbonate equivalent per ton (if claimed).

(f) Name and address of the registrant.

History: 1954 ACS 87, p. 14, Eff. May 5, 1976.

R 285.634.6 Soil conditioners.

Rule 6. A registration shall not be issued for a product that represents itself by label or supplemental material, leaflets, or advertising to improve the physical nature of the soil by altering the soil structure, by making soil nutrients more available, or otherwise enhancing the soil media resulting in beneficial crop response, unless the manufacturer or distributor of the product can provide scientifically acceptable data from experimentation which give reasonable assurance that such benefits as claimed can be expected to occur and are of definitive benefit to plant growth.

History: 1954 ACS 87, p. 14, Eff. May 5, 1976.

R 285.634.7 Tonnage reporting.

Rule 7. Tonnage reports and fee payment shall be on a form provided by the director of the department of agriculture and shall be for the semiannual periods of January 1 to June 30, and July 1 to December 31, of each calendar year. The reports shall cover all fertilizers, soil conditioners, and peat products sold for soil application in this state.

History: 1954 ACS 87, p. 14, Eff. May 5, 1976.

R 285.634.8 Rescission.

Rule 8. Regulation No. 200, being R 285.200 of the Michigan Administrative Code and appearing on pages 3108 to 3111 of the 1964-65 Annual Supplements to the Code, is rescinded.

History: 1954 ACS 87, p. 14, Eff. May 5, 1976.

REGULATION NO. 635. COMMERCIAL FEED

(By authority conferred on the director of agriculture by section 11 of Act No. 120 of the Public Acts of 1975, being §287.531 of the Michigan Compiled Laws)

R 285.635.1 Definitions and terms.

Rule 1. (1) As used in these rules:

(a) "AAFCO" means the association of American feed control officials.

(b) "Act" means Act No. 120 of the Public Acts of 1975, being §287.521 et seq. of the Michigan Compiled Laws.

(c) "Director" means the director of the department of agriculture.

(d) "Pet" means any domesticated animal normally maintained in or near the household of the owner.

(e) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

(f) "Principal display panel" is that portion of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions for retail sale.

(2) Names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by AAFCO, except as the director designates otherwise in specific cases. The terms used in reference to commercial feeds shall be the official feed terms adopted by AAFCO, except as the director designates

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otherwise in specific cases. The names, definitions, and terms adopted by AAFCO shall be from their annual publication available from their treasurer.

History: 1954 ACS 87, p. 14, Eff. Mar. 17, 1976.

R 285.635.2 Label format.

Rule 2. Commercial feeds, except pet foods, shall be labeled with the information prescribed in these rules.

(a) The principal display panel shall show such information in the following general format:

(i) Net weight.

(ii) Product name and brand name.

(iii) If drugs are used, the following shall appear:

(A) The word "medicated" directly following or below the product name in type size not smaller than ½ the type size of the product name.

(B) The purpose of medication (claim statement).

(C) The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by R 285.635.11 and R 285.635.12 appear elsewhere on the label.

(D) An active drug ingredient statement listing the active drug ingredients by their established name and the amounts pursuant to R 285.635.8(4).

(iv) The guaranteed analysis of the feed as required under section 5(1)(d) of the act, including the following items, unless exempted, and in the order listed:

(A) Minimum percentage of crude protein.

(B) Maximum or minimum percentage of equivalent protein from nonprotein nitrogen as required in R 285.635.8(5).

(C) Minimum percentage of crude fat.

(D) Maximum percentage of crude fiber.

(E) Minerals, to include in the following order: Minimum and maximum percentages of calcium (Ca), minimum percentages of phosphorus (P), minimum and maximum percentages of salt (NaCl), and other minerals.

(F) Vitamins in such terms as specified in R 285.635.8(3).

(G) Total sugars as invert in dried molasses products or in products being sold primarily for their molasses content.

(H) Exemptions to the above guaranteed analysis requirements consist of the following:

1. Guarantees for minerals are not required when specific label claims do not exist and when the commercial feed contains less than 6½% of total mineral elements.

2. Guarantees for vitamins are not required when the commercial feed is neither formulated for, nor represented in any manner as, a vitamin supplement.

3. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(b) The name of each ingredient as defined in the official definitions of feed ingredients published in the official publication of AAFCO, common or usual name, or one approved by the director, shall be used in the ingredient statement. Collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the official publication of AAFCO, in lieu of the individual ingredients, may be used if:

(i) Individual ingredients included in a collective term are not otherwise listed on the label.

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(ii) The manufacturer provides the director, upon request, with a listing of individual ingredients within a defined group that are, or have been, used at manufacturing facilities distributing in or into the state.

(c) The name and principal mailing address of the manufacturer or person responsible for distributing the feed shall appear on the label. The principal mailing address shall include the street address, city, state and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

(d) The information required in section 5(1)(a) to (e) of the act shall appear in its entirety on one side of the label or on one side of the container. The information required by section 5(1)(f) and (g) of the act shall be displayed in a prominent place on the label or container, but not necessarily on the same side as the above information. When the information required by section 5(1)(f) and (g) is placed on a different side of the label or container, it shall be referenced on the front side with a statement such as "see back of label for directions for use." None of the information required by section 5 of the act shall be subordinated or obscured by other statements or designs.

History: 1954 ACS 87, p. 15, Eff. Mar. 17, 1978.

R 285.635.3 Pet food label information.

Rule 3. Pet food shall be labeled with the information prescribed in this rule.

(a) The statement of net content and product name shall be on the principal display panel of the label. Other required information may be placed elsewhere on the label but shall be sufficiently conspicuous to render it easily readable.

(b) The label of a pet food shall specify the name and address of the place of business of the manufacturer, packer, or distributor of the pet food. The statement of the place of business shall include the street address, if any, of the place unless the street address is shown in a current city directory.

(c) The information required to appear in the "guaranteed analysis" shall be listed in the following order and in the form stipulated in R 285.635.8:

Crude protein (minimum)
Crude fat (minimum)
Crude fiber (maximum)
Moisture (maximum)
Additional guarantees shall follow moisture

(d) The maximum moisture in all canned pet foods shall be guaranteed and shall not exceed 78% of the natural moisture content of the constituent ingredients of the product, whichever is greater. Pet foods consisting principally of stew, gravy, sauce, broth, juice, or a milk replacer which are so labeled, may contain moisture in excess of 78%.

(e) Guarantees for minerals are not required if a pet food is neither formulated for, nor represented in any manner as, a mineral supplement. A guarantee as may be given or required shall be expressed as the element and in units of measurement established by a recognized authority on animal nutrition such as the national research council.

(f) Guarantees for vitamins are not required if a pet food is neither formulated for, nor represented in any manner as, a vitamin supplement. A guarantee as may be given or required shall be stated in units of measurement established by a recognized authority on animal nutrition such as the national research council.

(g) A vignette, graphic, or pictorial representation of a product on a pet food label shall not misrepresent the contents of the package.

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(h) The words "dog food," "cat food," or similar designations shall appear conspicuously upon the principal display panel of a pet food label.

(i) The label of a pet food shall not contain an unqualified representation or claim, directly or indirectly, that the pet food therein contained or a recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific, or balanced ration for the entire life cycle or any limited stage of the life cycle of a dog or cat unless the product or feeding contains 1 of the following:

(i) Ingredients in quantities sufficient to provide the estimated nutrient requirements for all stages or any limited stage of the life of a dog or cat, which have been established by a recognized authority on animal nutrition, such as the committee on animal nutrition of the national research council.

(ii) A combination of ingredients which, if fed to a normal animal as the only source of nourishment, shall provide satisfactorily for fertility of females, gestation and lactation, normal growth from weaning to maturity without supplementary feeding, and shall maintain the normal weight of an adult animal whether working or at rest and has had its capabilities in this regard demonstrated by adequate testing for the life cycle or for the specific stage of growth claimed. The testing shall be in accord with the protocol established by the association of American feed control officials.

History: 1954 ACS 92, p. 13, Eff. Sept. 15, 1977.

R 285.635.4 Pet food brand and product names.

Rule 4. The brand and product name on commercial pet foods shall comply with each of the following:

(a) A flavor designation shall not be used on a pet food label unless the designated flavor is detectable by a recognized test method, or is one the presence of which provides a characteristic distinguishable by a pet. Any flavor designation on a pet food label shall either conform to the name of its source as shown in the ingredient statement or the ingredient statement shall show the source of the flavor. The word "flavor" shall be printed in the same size type and with an equal degree of conspicuousness as the ingredient term or terms from which the flavor designation is derived. A distributor of pet food employing a flavor designation or claims on the labels of the product distributed by it shall, upon request, supply verification of the designation or claimed flavor.

(b) The designation "100%" or "all" or words of similar connotation shall not be used in the brand or product name of a pet food if it contains more than 1 ingredient. However, for the purpose of this subdivision, water sufficient for processing, required decharacterizing agents, and trace amounts of preservatives and condiments shall not be considered ingredients.

(c) The terms "meat" and "meat by-products" shall be qualified by designating the animal from which the meat and meat by-products are derived unless the meat and meat by-products are from cattle, swine, sheep, and goats. For example, "horsemeat" and "horsemeat by-products."

(d) The name of a pet food shall not be derived from 1 or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture of a pet food product unless all components or ingredients are ingredients included in the name as specified by subdivisions (a), (e), or (f). The name of an ingredient or combination of ingredients may be used as a part of the product name if 1 of the following exists:

(i) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is presented in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof.

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(ii) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.

(iii) It is not otherwise false or misleading.

(e) If an ingredient or combination of ingredients derived from animals, poultry, or fish constitutes 95% or more of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient or ingredients may form a part of the product name of the pet food provided that where more than 1 ingredient is part of such product name, then all such ingredient names shall be in the same size, style, and color print.

(f) If an ingredient or combination of ingredients derived from animals, poultry, or fish constitutes at least 25% but less than 95% of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient or ingredients may form a part of the product name of the pet food only if the product name also includes a primary descriptive term such as "meatballs" or "fishcakes" so that the product name describes the contents of the product in accordance with an established law, custom, or usage or so that the product name is not misleading. All such ingredient names and the primary descriptive term shall be in the same size, style, and color print.

(g) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food unless it is in compliance with subdivisions (a), (d), (e), or (f).

History: 1954 ACS 92, p. 14, Eff. Sept. 15, 1977.

R 285.635.5 Brand and product names.

Rule 5. The brand and product names on commercial feeds, except pet foods, shall comply with the following:

(a) The brand or product name shall be appropriate for the intended use of the feed and shall not be misleading. If the name indicates the feed is made for a specific use, the character of the feed shall conform therewith. A mixture labeled "dairy feed," for example, shall be suitable for that purpose.

(b) Commercial, registered brand, or trade names shall not be permitted in guarantees or ingredient listings.

(c) The name of a commercial feed shall not be derived from 1 or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing components of a mixture unless all components are included in the name. If any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredient or combination of ingredients is listed in the ingredient statement and the brand or product name is not otherwise false or misleading.

(d) The word "protein" shall not be permitted in the product name of a feed that contains added nonprotein nitrogen.

(e) When the name carries a percentage value, it shall be understood to signify protein or equivalent protein content only, or both, even though it may not explicitly modify the percentage with the word "protein." Other percentage values may be permitted if they are followed by the proper description and conform to generally acceptable labeling practice. When a numeral is used in the brand name, except in mineral, vitamin, or other products where the protein guarantee is nil or unimportant, it shall be preceded by the word "number," or some other suitable designation.

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(f) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by AAFCO, unless the director designates otherwise.

(g) The word "vitamin," a contraction thereof, or any word suggesting vitamin may be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in R 285.635.8(3).

(h) The term "mineralized" shall not be used in the name of a feed, except for "trace mineralized salt." When so used, the product shall contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

History: 1954 ACS 87, p. 16, Eff. Mar. 17, 1976.

R 285.635.8 Expression of guarantees.

Rule 8. (1) The guarantees for crude protein, equivalent protein from non-protein nitrogen, crude fat, crude fiber, and mineral guarantees shall be in terms of percentage by weight.

(2) Commercial feeds containing 6½% or more of total mineral elements shall include in the guaranteed analysis the minimum and maximum percentages of calcium (Ca), the minimum percentage of phosphorus (P), and, if salt is added, the minimum and maximum percentage of salt (NaCl). Minerals, except salt (NaCl), shall be guaranteed in terms of percentage of the element. When calcium or salt guarantees, or both, are given in the guaranteed analysis, that fact shall be stated and conform to the following:

(a) When the minimum is 5.0% or less, the maximum shall not exceed the minimum by more than 1 percentage point.

(b) When the minimum is above 5.0%, the maximum shall not exceed the minimum by more than 20% and in no case shall the difference between maximum and minimum exceed 5 percentage points.

(3) Guarantees for minimum vitamin content of commercial feeds and feed supplements shall be stated on the label in milligrams per pound of feed, except that:

(a) Vitamin A, other than precursors of vitamin A, shall be stated in international units (IU) or United States Pharmacopeia (USP) per pound.

(b) Vitamin D, in products offered for poultry feeding, shall be stated in international chick units per pound. Vitamin D for other uses shall be stated in international units (IU) or United States Pharmacopeia (USP) per pound.

(c) Vitamin E shall be stated in international units (IU) or United States Pharmacopeia (USP) per pound.

(d) Guarantees for vitamin content on the label of a commercial feed shall state the guarantee as true vitamins, not compounds, with the exception of the compounds, pyridoxine hydrocholoride, choline chloride, thiamine, and d-pantothenic acid.

(e) Oils and premixes containing vitamin A or vitamin D, or both, may be labeled to show vitamin content in terms of units per gram.

(4) Guarantees for drugs shall be stated in terms of percent by weight, except:

(a) Antibiotics present at less than 2,000 grams per ton, total, of commercial feed shall be stated in grams per ton of commercial feed.

(b) Antibiotics present at 2,000 grams or more per ton, total, of commercial feed shall be stated in grams per ton of commercial feed.

(c) Labels for commercial feeds which are to be fed continuously as the sole ration containing growth promotion or feed efficiency levels of antibiotics, or both, are not required to make quantitative guarantees, except as specifically

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noted in 21 C.F.R. part 121, chapter 1, for certain antibiotics wherein quantitative guarantees are required regardless of the level or purpose of the antibiotic.

(d) The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in milligrams in the feed directions.

(5) Commercial feeds containing added nonprotein nitrogen shall be labeled as follows:

(a) Complete feeds, supplements, and concentrates containing added nonprotein nitrogen and containing more than 5% protein from natural sources shall be guaranteed as follows:

Crude protein, minimum, _____%
(This includes not more than _____%
equivalent protein from nonprotein nitrogen)

(b) Mixed feed concentrates and supplements containing less than 5% protein from natural sources may be guaranteed as follows:

Equivalent crude protein from nonprotein nitrogen, minimum, _____%

(c) Ingredient sources of nonprotein nitrogen such as urea, di-ammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic nonprotein nitrogen ingredients defined by AAFCO shall be guaranteed as follows:

Nitrogen, minimum, _____%
Equivalent crude protein from nonprotein nitrogen,
minimum, _____%

(6) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium, the minimum percentage of phosphorus, and the maximum percentage of fluorine.

History: 1954 ACS 87, p. 16, Eff. Mar. 17, 1976.

R 285.635.10 Ingredients.

Rule 10. (1) The name of each ingredient or collective term for the grouping of ingredients shall be the name as defined in the official definitions of feed ingredients as published in the official publication of AAFCO, or one approved by the director.

(2) The name of each ingredient shall be shown in letters or type of the same size.

(3) A reference to quality or grade of an ingredient shall not appear in the ingredient statement of a feed.

(4) The term "dehydrated" may precede the name of a product that has been artificially dried.

(5) A single ingredient product defined by AAFCO need not have an ingredient statement.

(6) When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

History: 1954 ACS 87, p. 17, Eff. Mar. 17, 1976.

R 285.635.11 Directions for use; precautionary statements.

Rule 11. (1) Directions for use and precautionary statements on the labeling of commercial feeds and customer-formula feeds containing additives, including drugs, special purpose additives, or nonnutritive additives, shall:

(a) Be adequate to enable safe and effective use for the intended purposes by users without special knowledge of the purpose and use of the articles.

(b) Include all information prescribed by applicable regulations under the federal food, drug, and cosmetic act, 21 C.F.R. part 121 and part 558.

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(2) Adequate directions for use and precautionary statements are required for feeds containing nonprotein nitrogen as specified in R 285.635.12.

(3) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with a vitamin, mineral, or other dietary nutrient or compound.

History: 1954 ACS 87, p. 18, Eff. Mar. 17, 1976.

R 285.635.12 Nonprotein nitrogen.

Rule 12. (1) Urea and other nonprotein nitrogen products defined in the official publication of AAFCO are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein and shall not be used in commercial feeds for other animals and birds.

(2) If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of nonprotein nitrogen, added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, exceeds ⅛ of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement:

"CAUTION: USE AS DIRECTED"

The directions for use and the caution statement shall be in type of such size so placed on the label that they may be read and understood by ordinary persons under customary conditions of purchase and use.

(3) On labels such as those for medicated feeds which bear adequate feeding directions or warning statements, or both, the presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of nonprotein nitrogen.

History: 1954 ACS 87, p. 18, Eff. Mar. 17, 1976.

R 285.635.13 Drug and feed additives.

Rule 13. (1) Prior to approval of a license application, or approval of a label for commercial feed which contains additives (including drugs, other special purpose additives, or nonnutritive additives, or both), the manufacturer may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

(2) Satisfactory evidence of safety and efficacy of a commercial feed is achieved when:

(a) The commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the food additives regulations, 21 C.F.R. part 121, chapter 1, or which are "prior sanctioned" or "generally recognized as safe" for such use.

(b) The commercial feed is itself a drug as defined in section 3(h) of the act and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the food and drug administration under 21 U.S.C. §512.

History: 1954 ACS 87, p. 18, Eff. Mar. 17, 1976.

R 285.635.14 Adulterants.

Rule 14. (1) For the purpose of section 8(1)(a) of the act, the term "poisonous or deleterious substances" includes, but is not limited to, the following:

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(a) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.10% for cattle, 0.30% for sheep, 0.45% for swine, and 0.60% for poultry.

(b) Fluorine-bearing ingredients when used in such amounts that they raise the fluorine content of the total ration exclusive of hay and silages above 0.002% for cattle, 0.006% for sheep, 0.014% for swine, and 0.030% for poultry.

(c) Soybean meal, flakes, or pellets, or other vegetable meals, flakes, or pellets, which have been extracted with trichlorethylene or other chlorinated solvents.

(d) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (thiamine).

(2) Screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product does not contain any viable prohibited weed seeds per pound and not more than 90 viable restricted weed seeds per pound. Prohibited and restricted weed seeds shall be those defined in Act No. 329 of the Public Acts of 1965, as amended, being §286.701 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 87, p. 18, Eff. Mar. 17, 1976; 1954 ACS 92, p. 15, Eff. Sept. 15, 1977.

R 285.635.15 Good manufacturing practices.

Rule 15. For the purposes of enforcing section 8(f) of the act, the director adopts the following as current good manufacturing practices:

(a) The regulations prescribing good manufacturing practices for medicated feeds as published in 21 C.F.R. §§225.1 to 225.115.

(b) The regulations prescribing good manufacturing practices for medicated premixes as published in 21 C.F.R. §§226.1 to 226.115.

History: 1954 ACS 87, p. 19, Eff. Mar. 17, 1976.

R 285.635.16 Recall procedures.

Rule 16. When a voluntary recall that requires notification to the director pursuant to the act is initiated by a licensee, the notification may be oral if it is followed by a written notice to the director.

History: 1954 ACS 87, p. 19, Eff. Mar. 17, 1976.

R 285.635.17 Tonnage inspection fee.

Rule 17. The tonnage inspection fee determined in accordance with section 6(3) of Act No. 120 of the Public Acts of 1975, being §287.526(3) of the Michigan Compiled Laws, is established at 13 cents per ton.

History: 1954 ACS 92, p. 15, Eff. Sept. 15, 1977.

REGULATION NO. 636. PESTICIDE APPLICATORS

(By authority conferred on the director of the department of agriculture by section 19 of Act No. 171 of the Public Acts of 1976, being §286.569 of the Michigan Compiled Laws)

R 285.636.1 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 171 of the Public Acts of 1976, being §286.551 et seq. of the Michigan Compiled Laws.

(b) "Aerial application" means the application of a pesticide by aircraft.

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(c) "Forest" means a concentration of trees and related vegetation in non-urban areas which is sparsely inhabited by, and infrequently used by, humans and which is characterized by natural terrain and drainage patterns.

(d) "Licensed commercial applicator" means the owner, operator, or manager of a licensed pesticide application business.

(e) "Pesticide advisory committee" means the pesticide advisory committee as provided by section 20 of the act.

(f) "Space fumigation" means the application of pesticide gases in sealed enclosures or structures, including, but not limited to, soil, stored grain facilities, "hot spot" fumigation (treatment of localized areas in a grain mass), railway cars, trucks, greenhouses, and other indoor areas.

(2) The terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 89, p. 9, Eff. Nov. 12, 1976.

R 285.636.2 Application for certification.

Rule 2. A "private applicator" or "commercial applicator" desiring to be certified pursuant to the act shall apply on a form prescribed by the director. The application shall be accompanied by the application fee prescribed by the act. Commercial applicators shall designate the category or categories of certification desired in accordance with R 285.636.3. An application pending after 1 year from the date on the application shall become void.

History: 1954 ACS 89, p. 10, Eff. Nov. 12, 1976.

R 285.636.3 Certification categories and subcategories for commercial applicators.

Rule 3. The following categories and subcategories of pesticide application for commercial applicators are established to include:

(1) Agricultural pest control:

(a) Field crops—Includes the application of pesticides on field crop lands for the production of such crops as cereal grains, feed grains, beans, soybeans, sugarbeets, and forage.

(b) Vegetable crops—Includes the application of pesticides on vegetable crop lands for the production of such crops as tomatoes, potatoes, snap beans, celery, onions, cucurbits, cole crops, and sweet crops.

(c) Fruit crops—Includes the application of pesticides to fruit crop lands for the production of tree and small fruit crops.

(d) Animal—Includes commercial applicators who use or supervise the use of pesticides on animals, including cattle, swine, sheep, horses, goats, other livestock, and poultry, and the use of pesticides on or in places where animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides aside from normal practice, are included in this category.

(2) Forest pest control—Includes commercial applicators using or supervising the use of pesticides in forests, forest nurseries, and forest seed-producing areas.

Forest products—Commercial applicators using or supervising the use of pesticides for preserving wood products.

(3) Ornamental and turf pest control—Includes commercial applicators using or supervising the use of pesticides in the maintenance and production of ornamental trees, Christmas trees, shrubs, flowers, and turf, and the treatment of such areas for mosquito control.

(4) Seed treatment—Includes commercial applicators using or supervising the use of pesticides on seeds.

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(5) Aquatic pest control—Includes commercial applicators using or supervising the use of pesticides purposefully applied to lakes, ponds, streams, marshes, or ditches, and tributaries which flow into them, or applied to surfaces contacting such bodies of water, but does not include applicators engaged in public health-related activities included in category (8).

(6) Right-of-way pest control—Includes commercial applicators using or supervising the application of pesticides in the maintenance of public roads, ditch banks, electric powerlines, pipelines, railway rights-of-way, parking lots, tennis courts, or similar non-crop areas.

(7) Industrial, institutional, structural, and health-related pest control:

(a) General pest control—Includes commercial applicators using or supervising the use of pesticides in, on, or around food-handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structure or adjacent areas, including public or private vehicles; and the use of pesticides for the treatment of such areas for mosquito control, or for the protection of stored, processed, or manufactured products, but not including applicators engaged in the control of wood-destroying organisms as described in subcategory (7)(b).

(b) Wood-destroying organisms—Includes commercial applicators using or supervising the use of pesticides in, on, or around structures for the control of such wood-destroying pests as termites, powder post beetles, carpenter ants, and wood-destroying fungi.

(c) Contractual public health pest control—Includes licensed commercial applicators performing a public health pest control service under contract by a governmental agency, and in so doing, using or supervising the use of pesticides to control pests having medical and public health significance.

(8) Public health pest control—Includes state, federal, or other governmental employees using or supervising the use of restricted-use pesticides in public health programs for the management and control of pests having medical and public health importance.

(9) Regulatory pest control—Includes state, federal, or other governmental employees using or supervising the use of restricted-use pesticides in the control of regulated pests.

(10) Demonstration and research pest control—Includes individuals who demonstrate to the public the proper use and techniques of application of restricted-use pesticides or supervise such demonstrations, and persons who conduct field research with pesticides, and in so doing, use or supervise the use of restricted-use pesticides.

History: 1954 ACS 89, p. 10, Eff. Nov. 12, 1976; 1954 ACS 99, p. 35, Eff. Apr. 18, 1979.

R 285.636.4 Standards for certification of commercial applicators.

Rule 4. Commercial applicators shall demonstrate a practical knowledge, by written examination, of the principles and practices of pest control and the safe use of pesticides, to include the general standards applicable to all categories and the standards specifically identified for each category or subcategory designated by the applicant as set forth in 40 C.F.R. §§171.4 and 171.6 and these rules. In addition, applicators applying pesticides by aircraft or employing space fumigation shall be examined on the additional standards specifically identified for the methods of application as specified in subdivision (b). Standards for certification shall be as follows:

(a) Subcategory standards:

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(i) Field crops (R 285.636.3(1)(a)), vegetable crops (R 285.636.3(1)(b)), and fruit crops (R 285.636.3(1)(c))—Applicators shall demonstrate a practical knowledge of the relevant crops, associated pests, soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination and nontarget injury resulting from the use of pesticides in agricultural areas.

(ii) Forest products (R 285.636.3(2)(a))—Applicators shall demonstrate a practical knowledge of the principles and practices associated with the safe use of wood preservatives, and shall demonstrate a practical knowledge of wood-destroying organisms, types of formulations appropriate for their control, and methods of application. Since human exposure is frequently a potential problem, applicators shall demonstrate a practical knowledge of the specific factors which may lead to a hazardous condition.

(iii) General pest control (R 285.636.3(7)(a))—Applicators shall demonstrate a practical knowledge of a wide variety of pests, including their life cycles; types of formulations appropriate for their control; and methods of application that avoid the contamination of food, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including the exposure of babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators shall demonstrate a practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health-related pest control may involve outdoor applications, applicators shall also demonstrate a practical knowledge of environmental conditions particularly related to this activity.

(iv) Wood-destroying organisms (R 285.636.3(7)(b))—Applicators shall demonstrate a practical knowledge of wood-destroying organisms, including their life cycles, types of formulations appropriate for their control, and the methods of application that avoid the contamination of food, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including the exposure of babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators shall demonstrate a practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category.

(v) Contractual public health pest control (R 285.636.3(7)(c))—Applicators shall demonstrate a practical knowledge of the management and control of pests having medical and public health importance, including their life cycles and habitats, and methods of application that avoid the contamination of food and the exposure of people. These applicators shall have a practical knowledge of a great variety of environments, ranging from streams to those conditions found in buildings, and a practical knowledge of the employment of such non-chemical control methods as sanitation, waste disposal, and drainage.

(b) Additional standards:

(i) Aerial applicators—Applicators applying pesticides by aircraft shall demonstrate a practical knowledge of the techniques of aerial application and applicable federal aviation administration regulations. Practical knowledge is required concerning nontarget injury that may result from aerial application of pesticides.

(ii) Space fumigation—Applicators shall demonstrate a practical knowledge of the principles and methods of space fumigation. Practical knowledge is required concerning toxicity, the potential for environmental contamination, and the nontarget injury that may result from the use of pesticide gases.

(c) Administrative standards—Applicators requesting certification in a method of application which differs in part from 1 of the established categories set forth in

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R 285.636.3 shall demonstrate a practical knowledge of such standards determined by the director as being applicable to the method of application described by the applicant. Such standards prescribed by the director shall include the general standards applicable to all categories and the standards specifically identified as appropriate for the applicant's method of application.

History: 1954 ACS 89, p. 11, Eff. Nov. 12, 1976; 1954 ACS 99, p. 36, Eff. Apr. 18, 1979.

R 285.636.5 Standards for certification of private applicators.

Rule 5. Private applicators shall demonstrate a practical knowledge of the principles and practices of pest control and the safe use of pesticides, including the standards for certification of private applicators set forth in 40 C.F.R. §§171.5 and 171.6. In addition, private applicators applying pesticides by aircraft or employing space fumigation shall demonstrate a practical knowledge of the additional standards specifically identified for those methods of application in R 285.636.4(b).

History: 1954 ACS 89, p. 12, Eff. Nov. 12, 1976; 1954 ACS 99, p. 37, Eff. Apr. 18, 1979.

R 285.636.6 Certification examinations.

Rule 6. (1) Certification examinations shall be conducted at a time and place designated by the director. A score of 70 or above is required for passing any written examination. A score of less than 70 on the general standards examination shall result in denial of certification. Failure of a category or method of application examination shall result in denial of certification for that category or method of application. A reexamination may be requested and shall be given.

(2) An oral fact-finding interview for private applicators, as provided by the act, shall consist of oral standardized questions developed by the Michigan state university cooperative extension service and approved by the pesticide advisory committee. Such questions shall address the standards of competency for private applicators set forth in the federal regulations (40 C.F.R. §§171.5 and 171.6). The oral fact-finding interview may restrict the applicator to use only a certain type of equipment or pesticide.

History: 1954 ACS 89, p. 12, Eff. Nov. 12, 1976.

R 285.636.7 Certificate of competence; issuance; expiration; renewal; replacement; certification in additional category or method.

Rule 7. (1) An applicant for certification who is found to be qualified under the act and these rules shall be issued a certificate of competence, which shall be valid, unless suspended or revoked for cause, to the third birthday of the applicant following the year of issuance. However, certificates issued prior to October 21, 1977, to private applicators and commercial applicators not required to be licensed, shall not expire earlier than October 21, 1980.

(2) A commercial applicator certificate shall show the categories and applicable methods of application in R 285.636.4(b) for which the person has demonstrated competence.

(3) A private applicator certificate shall show the applicable methods of application R 285.636.4(b) for which the person has demonstrated competence.

(4) A certificate may be renewed by application on a form prescribed by the director and accompanied by the application fee prescribed by the act and upon determination that the applicant has met the qualifications established by the act and these rules. To assure that certified applicators maintain competence in the use of pesticides, the director, as a condition for renewal, may require verifiable attendance at designated training meetings, or may require an examination on

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changes in pesticide application technology or use patterns pertinent to the certification category, or may require both.

(5) Loss or theft of a certificate shall be reported to the director by the person to whom issued immediately upon discovery. A replacement shall be issued for a lost, stolen, or mutilated certificate upon receipt of an application on a form prescribed by the director and the application fee established by the act.

(6) A commercial applicator who, after initial certification, desires certification in an additional category or method of application may apply on a form prescribed by the director, accompanied by the application fee established by the act. Upon satisfactory completion of the examination for the category or method as required by R 285.636.6, and upon surrender of the certificate in possession, the applicant shall be issued a replacement certificate showing the additional category and the expiration date of the certificate replaced.

History: 1954 ACS 89, p. 12, Eff. Nov. 12, 1976.

R 285.636.8 Application for license.

Rule 8. (1) Application for license to engage in the business of applying pesticides shall be made on a form prescribed by the director. The applicant shall be a certified applicator or shall employ a certified applicator to apply or supervise the application of pesticides. The licensee shall notify the director of any changes relative to the status of a certified applicator named on the license application.

(2) A license application shall be accompanied by a certificate from an insurance company or an approved surplus lines company, authorized to do business in this state, setting forth the insurance limits prescribed in R 285.636.10.

(3) When using an assumed name, an application for an original license shall be accompanied by a registered assumed name certificate.

(4) A foreign corporation shall obtain a certificate of authority to transact business in the state of Michigan from the corporation and securities bureau of the department of commerce pursuant to Act No. 284 of the Public Acts of 1972, as amended, being §450.1101 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 89, p. 12, Eff. Nov. 12, 1976.

R 285.636.9 License renewals.

Rule 9. A license may be renewed on the form prescribed by the director if the applicant meets all of the qualifications set forth in the act and these rules.

History: 1954 ACS 89, p. 13, Eff. Nov. 12, 1976.

R 285.636.10 Financial responsibility.

Rule 10. (1) A licensed commercial applicator shall maintain general liability insurance, except as provided in R 285.636.10(5), during the licensing period or during the period of time necessary to span a seasonal operation.

(2) Minimum insurance coverage for persons engaged in aerial application or space fumigation shall be $100,000.00 for each occurrence, with a $300,000.00 annual aggregate for bodily injury and $100,000.00 property damage, or a combined single limit of $300,000.00 annual aggregate for bodily injury and property damage.

(3) Minimum insurance coverage for persons licensed in a category or subcategory described in R 285.636.3 shall be $100,000.00 for each occurrence, with a $300,000.00 annual aggregate for bodily injury and $50,000.00 property damage, or a combined single limit of $300,000.00 annual aggregate for bodily injury and property damage, except as prescribed in R 285.636.10(2).

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(4) If an applicant is qualified for a license in 2 or more application categories with different minimum financial responsibilities, the greater requirement shall apply.

(5) A single general liability insurance policy, as prescribed in R 285.636.10(2) and (3), may be written to provide financial responsibility coverage for more than one licensed place of business owned and operated by the same person.

(6) If the required insurance coverage for a license expires or is canceled during the license period, the license shall be suspended and the licensee shall surrender the license to the director for the remainder of the licensing period, or until such time as the financial responsibility requirements are in compliance.

History: 1954 ACS 89, p. 13, Eff. Nov. 12, 1976.

R 285.636.11 Commercial applicator records.

Rule 11. All commercial applicators shall maintain a record of restricted use pesticide applications for a period of at least 2 years following the application. Such records shall show the name of the pesticide applied, amount used, purpose, date, place where applied, and the method and the rate of application. The applicator's records shall be made available upon request to an authorized representative of the director during normal business hours.

History: 1954 ACS 89, p. 13, Eff. Nov. 12, 1976.

R 285.636.12 Supervision of noncertified applicators.

Rule 12. (1) A certified applicator who functions in a supervisory role shall be responsible for the actions of any noncertified applicators under his instruction and control.

(2) A certified applicator shall provide verifiable instructions for the application of a restricted-use pesticide applied by a noncertified applicator under his control when the certified applicator is not required to be physically present. The instructions may be either oral or written and shall include instructions for contacting the certified applicator in the event he is needed.

(3) The certified applicator shall be physically present to supervise the application of a pesticide by a noncertified applicator if such presence is required by the label of the pesticide being applied.

(4) Each pilot applying pesticides from aircraft shall be certified pursuant to the applicable standards prescribed under R 285.636.4.

History: 1954 ACS 89, p. 13, Eff. Nov. 12, 1976; 1954 ACS 99, p. 37, Eff. Apr. 18, 1979.

R 285.636.13 Rescission.

Rule 13. Regulation No. 632, entitled "Economic Poisons Applicators," being R 285.632.1 to R 285.632.6 of the Michigan Administrative Code and appearing on pages 5462 to 5464 of the 1970-71 Annual Supplements to the Code, is rescinded.

History: 1954 ACS 89, p. 13, Eff. Nov. 12, 1976.

LABORATORY DIVISION

REGULATION NO. 700. VEGETABLE SEED GERMINATION STANDARDS

R 285.700 Rescinded.

History: 1944 AC, p. 20; 1954 AC, p. 1560; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 701. TESTING FIELD AND VEGETABLE SEED

R 285.701 Rescinded.

History: 1944 AC, p. 20; rescinded 1944 ACS 27, p. 15.

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REGULATION NO. 702. INTERSTATE SHIPMENT PAPERS

R 285.702 Rescinded.

History: 1944 AC, p. 21; 1954 AC, p. 1560; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 703. DEFINITION

R 285.703 Rescinded.

History: 1944 AC, p. 21; 1954 AC, p. 1560; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 705. LABELING

R 285.705 Rescinded.

History: 1944 AC, p. 21; 1954 AC, p. 1561; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 706. LABELING

R 285.706 Rescinded.

History: 1944 AC, p. 21; 1954 AC, p. 1561; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 707. DEFINITION; TERRITORY

R 285.707 Rescinded.

History: 1944 AC, p. 21; 1954 AC, p. 1561; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 708. DEFINITION; MIXTURE

R 285.708 Rescinded.

History: 1944 AC, p. 22; 1954 AC, p. 1561; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 709. TOLERANCES

R 285.709 Rescinded.

History: 1944 AC, p. 22; 1954 AC, p. 1561; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 710. GRADES FOR LAWN AND GRASS SEED MIXTURES

R 285.710 Suspended.

History: 1944 AC, p. 22.
Editor's note: The legislative interim committee on administrative rules suspended this rule on January 4, 1950.

REGULATION NO. 711. FEE SCHEDULE FOR SEED TESTING

R 285.711 Rescinded.

History: 1944 ACS 3, p. 7; 1944 ACS 31, p. 5; 1954 AC, p. 1562; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

REGULATION NO. 712. SALE OF LAWN SEED

R 285.712 Rescinded.

History: 1944 ACS 19, p. 8; 1954 AC, p. 1562; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.
Editor's note: The legislative interim committee on administrative rules suspended this rule on January 4, 1950.

REGULATION NO. 713. RESCISSION

R 285.713 Rescinded.

History: 1944 ACS 27, p. 15; 1954 AC, p. 1565; rescinded 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

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REGULATION NO. 714. SEED LAW IMPLEMENTATION

(By authority conferred on the director of agriculture by section 11 of Act No. 329 of the Public Acts of 1965, being §286.711 of the Michigan Compiled Laws)

R 285.714.1 Definitions.

Rule 1. When used in these rules, the terms defined in section 2 of Act No. 329 of the Public Acts of 1965, the Michigan seed law, and in R 285.714.2 to R 285.714.6 are applicable.

History: 1954 ACS 49, p. 7, Eff. Feb. 14, 1967.

R 285.714.2 Agricultural seed.

Rule 2. "Agricultural seed" means the following kinds of grass, forage, cereal, fiber, turfgrass, oil plant, and lawn seeds which are used for seeding purposes in Michigan:

Alfalfa-Medicago sativa L.
Barley-Hordeum vulgare L.
Bean, field-Phaseolus vulgaris L.
Bean, mung-Phaseolus aureus Roxb.
Beet, field-Beta vulgaris L.
Beet, sugar-Beta vulgaris L.
Bentgrass, colonial-Agrostis tenuis Sibth.
Bentgrass, creeping-Argrostis palustris Huds.
Bentgrass, velvet-Agrostis canina L.
Bermudagrass, common-Cynodon dactylon (L.) Pers.
Bermudagrass, giant-Cynodon sp.
Bluegrass, bulbous-Poa bulbosa L.
Bluegrass, Canada-Poa compressa L.
Bluegrass, glaucantha-Poa glaucantha Gaud.
Bluegrass, Kentucky-Poa pratenis L. (incl. all varieties.)
Bluegrass, Nevada-Poa nevadenis Vasey
Bluegrass, rough-Poa trivialis L.
Bluegrass, Texas-Poa, arachnifera Torr.
Bluegrass, wood-Poa nemoralis L.
Brome, field-Bromus arvensis L.
Brome, mountain-Bromus marginatus Nees.
Brome, smooth-Bromus inermis Leyss.
Broomcorn-Sorghum vulgare var. technicum (Koern.) Jav.
Buckwheat-Fagopyrum esculentum Moench (F. vulgare Hill.)
Burclover, California-Medicago hispida Gaertn.
Burclover, spotted-Medicago arabica (L.) DC.
Buttonclover-Medicago orbicularis (L.) All.
Canarygrass-Phalaris canariensis L.
Canarygrass, reed-Phalaris arundinacea L.
Castorbean-Ricinus communis L.
Clover, alsike-Trifolium hybridum L.
Clover, crimson-Trifolium incarnatum L.
Clover, Kenya-Trifolium semipilosum Fresn.
Clover, large hop-Trifolium procumbens L.
Clover, small hop (suckling)-Trifolium dubium Sibth.
Clover, ladino-Trifolium repens L.
Clover, red (medium or mammoth)-Trifolium pratense L.

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Clover, strawberry-Trifolium fragiferum L.
Clover, white-Trifolium repens L. (also see Clover, Ladino.)
Corn, field-Zea mays L.
Corn, pop-Zea mays var. everta (Sturt.) Bailey
Cowpea-Vigna sinensis (Torner) Savi
Crested dogtail-Cynosurus cristatus L.
Crownvetch-Coronilla varia L.
Emmer-Triticum dicoccum Schrank.
Fescue, Chewings-Festuca rubra var. commutata Gaud.
Fescue, hair-Festuca capillata Lam.
Fescue, hard-Festuca ovina var. duriuscula (L.) Koch.
Fescue, meadow-Festuca elatior L.
Fescue, red-Festuca rubra L.
Fescue, sheep-Festuca ovina L.
Fescue, tall-Festuca arundinacea Schreb.
Flax-Linum usitatissimum L.
Hemp-Cannabis sativa L.
Indiangrass, yellow-Sorghastrum nutans (L.) Nash
Japanese lawngrass-Zoysia japonica Steud.
Lentil-Lens culinaris Medic.
Lespedeza, Korean-Lespedeza stipulacea Maxim.
Lespedeza, sericea or Chinese-Lespedeza cuneata (Dumont) D. Don (L. sericea (Thunb.) Miq.)
Lespedeza, Siberian-Lespedeza hedysaroides L.
Lespedeza, striate-Lespedeza striata (Thunb.) Hook and Arn.
Lupine, blue-Lupinus angustifolius L.
Lupine, white Lupinus albus L.
Lupine, yellow-Lupinus luteus L.
Millet, browntop-Panicum ramosum L.
Millet, foxtail-Setaria italica (L.) Beauv.
Millet, Japanese-Echinochloa crusgalli var. frumentacea (Roxb.) Wight.
Millet, pearl-Pennisetum glaucum (L.) R. Br.
Millet, proso-Panicum miliaceum L.
Oat-Avena Byzantine C. Koch, A. sativa L., A. nuda L.
Oatgrass, tall-Arrhenatherum elatius (L.) Mert. and Koch.
Orchardgrass-Dactylis glomerata L.
Pea, field-Pisum sativum var. arvense (L.) Poir.
Poe trivialis-(see Bluegrass, rough).
Rape, annual-Brassica napus var. annua Koch.
Rape, bird-Brassica campestris L.
Rape, turnip-Brassica campestris vars.
Rape, winter-Brassica napus var. biennis (Schubl. and Mart.) Reichb.
Redtop-Agrostis alba L.
Roughpea, Lathyrus hirsutus L.
Rye-Secale cereale L.
Ryegrass, annual or Italian-Lolium multiflorum Lam.
Ryegrass, perennial-Lolium perenne L.
Ryegrass, Wimmera-Lolium rigidum Gaud.
Safflower-Carthamus tinctorius L.
Sorghum-Sorghum vulgare Pers.
Sorghum-sudangrass hybrid-Sorghum vulgare x S. Sudanense
Sourclover-Melilotus Indica (L.) All.

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Soybean-Glycine max (L.) Merrill (Soja max (L.) Piper).
Spelt-Triticum spelta L.
Sudangrass-Sorghum vulgare var. sudanense (Piper) Hitche.
Sugar Beet-Beta vulgaris.
Sunflower-Helianthus annuus L.
Sweetclover or Sweet clover, white-Melilotus alba Desr.
Sweetclover, yellow-Melilotus officinalis (L.) Lam.
Sweet vernalgrass-Anthoxanthum odoratum L.
Timothy-Phleum pratense L.
Trefoil, big-Lotus uliginosus Schkuhr.
Trefoil, birds-foot-Lotus corniculatus L.
Velvetgrass-Holcus lanatus L.
Vetch, common-Vicia sativa L.
Vetch, hairy-Vicia villosa Roth.
Vetch, Hungarian-Vicia pannonica Grantz.
Vetch, monantha-Vicia articulata Hornem. (V. monatha Desf.)
Vetch, narrowleaf-Vicia angustifolio (L.) Reich.
Vetch, purple-Vicia atropurpurea Desf.
Vetch, Woollypod-Vicia dasycarpa Ten.
Wheat, Common-Triticum aestivum L. (T. vulgare Vill.)
Wheat, club-Triticum compactum Host.
Wheat, durum-Triticum durum Desf.
Wheat, Polish-Triticum polonicum (L.)
Wheat, poulard-Triticum turgidum L.
Wheatgrass, beardless-Agropyron inerme (Scribn. & Smith) Rydb.
Wheatgrass, crested or fairway crested-Agropyron cristatum (L.) Gaertn.
Wheatgrass, crested or standard crested-Agropyron desertorum (Fisch.) Schult.
Wheatgrass, intermediate-Agropyron intermedium (Host) Beauv.
Wheatgrass, pubescent-Agropyron trichophorum (Link) Richt.
Wheatgrass, Siberian-Agropyron sibiricum (Willd.) Beauv.
Wheatgrass, slender-Agropyron pauciflorum (Schwein.) Hutchc, (A. trachycaulum Steud.)
Wheatgrass, streambank-Agropyron riparium Scribn. and Smith.
Wheatgrass, tall-Agropyron elongatum (Host) Beauv.
Wheatgrass, western-Agropyron smithii Rydb.
Wildrye, Canada-Elymus canadensis L.
Wildrye, Russian-Elymus junceus Fisch.
Zoysia japonica-(see Japanese lawngrass).
Zoysia matrella.

History: 1954 ACS 49, p. 7, Eff. Feb. 14, 1967.

R 285.714.3 Vegetable and herb seed.

Rule 3. "Vegetable and herb seed" means seeds of the following kinds grown for food, flavor, aromatic, or medicinal purposes in gardens or on truck farms and commonly known as vegetable or herb seed:

Angelica-Angelica archangelica
Anise-Pimpenella anisum
Artichoke-Cynara scolymus
Asparagus-Asparagus officinalis
Asparagusbean-Vigna sesquipedalis
Balm, lemon-Melissa officinalis
Basil, sweet-Ocimum basilicum
Bean, garden-Phaseolus vulgaris
Bean, lima-Phaseolus lunatus
Bean, runner-Phaseolus coccineus
Beet, garden-Beta vulgaris
Belladonna-Atropa belladonna
Blessed thistle-Cnicus benedictus
Borage-Borago officinalis

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Broadbean-Vicia faba
Broccoli-Brassica oleracea
Brussels sprouts-Brassica oleracea
Burdock, great-Arctium lappa
Cabbage-Brassica oleracea
Cabbage, Chinese-Brassica oleracea
Cabbage, tronchuda-Brassica oleracea
Camomile-Anthemis nobilis
Cantaloupe-(See Muskmelon) Cucumis melo
Caraway-Carum carri
Cardoon-Cynara cardunculus
Carrot-Daucus carota
Castorbean-Ricinus communis
Catnip-Nepeta cataria
Cauliflower-Brassica oleracea
Celeriac-Apium graveolens
Celery-Apium graveolens
Chard, Swiss-Beta vulgaris
Chervil-Anthriscus cerifolium
Chicory-Cichorium intybus
Chives-Allium schoenophrasum
Citron-Citrullis vulgaris
Collards-Brassica oleracea
Coriander-Coriandrum sativum
Corn, sweet-Zea mays
Cornsalad-Valerianella locusta
Cowpea-Vigna sinensis
Cress, garden-Lepidium sativum
Cress, upland-Barbarea verna
Cress, water-Rorippa nasturtium aquaticum
Cucumber-Cucumis sativus
Cumin-Cuminum cyminum
Dandelion-Taraxacum officinale
Dandelion, Italian-Cicoria catalogna
Dill-Anethum graveolens
Eggplant-Solanum melongena
Endive-Cichorium endivia
Fennel-Foeniculum vulgare
Henbane-Hyoscyamus niger
Horehound-Marrubium vulgare
Kale-Brassica oleracea
Kale, Chinese-Brassica oleracea
Kale, Siberian-Brassica napus
Kohlrabi-Brassica oleracea
Lavender-Lavandula spica
Leek-Allium porrum
Lettuce-Lactuca sativa
Licorice-Gylcyrrhiza glabra
Lobelia-Lobelia inflata
Lovage-Levisticum officinale
Marjoram, sweet-Marjorana hortensis
Mercury-Chenopodium bonus henricus
Muskmelon-Cucumis melo
Mustard, spinach-Brassica perviridis
Nasturtium-Tropaeolum spp.
Okra-Hibiscus esculentus
Onion-Allium cepa
Onion, Welsh-Allium fistulosum
Origanum-Origanum vulgare
Pak-choi-Brassica chinensis
Parsley-Petroselinum crispum
Parsnip-Pastinaca satica
Pea, garden-Pisum sativum
Pepper, Capsicum spp.
Psyllium-Plantago psyllium
Pumpkin-Cucurbita spp.
Radish-Raphanus sativus
Rhubarb-Rheum rhaponticum
Roquette-Eruca sativa
Rosemary-Rosmarius officinalis
Rue-Ruta graveolens
Rutabaga-Brassica napus
Safflower-Carthamus tinctorius
Sage-Salvia officinalis
Salad burnet-Sanquisorba minor
Salsify-Tragopogon porrifolius
Savory, summer-Satureja hortensis
Sesame-Sesamum indicum
Sorrel-Rumex oleracea
Soybean-Glycine max, Soja max
Spinach-Spinacia oleracea
Spinach, New Zealand-Tetragonia expansa
Squash-Cucurbita spp.
Stramonium-Datura stramonium
Tansy-Tanacetum vulgare
Thyme-Thymus vulgaris
Tobacco-Nicotiana tabacum
Tomato-Lycopersicon esculentum
Tomato, husk-Physalis pubescens
Turnip-Brassica rapa
Watermelon-Citrullus vulgaris
Wormseed-Chenopodium ambrosioides
Wormwood-Artemisia absinthium

History: 1954 ACS 49, p. 9, Eff. Feb. 14, 1967; 1954 ACS 79, p. 28, Eff. May 22, 1974.

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R 285.714.4 Flower seed.

Rule 4. "Flower seed" means the following kinds of flowers usually grown for their aromatic or decorative value, and are generally known and sold under the name of flowers:

Achillea-Achillea spp.
Adams needle yucca-Yucca filamentosa
Ageratum-Ageratum mexicanum
Alyssum-Alyssum spp.
Amaranthus-Amaranthus spp.
Anagallis-Anagallis spp.
Anchusa-Anchusa spp.
Anemone-Anemone spp.
Angel's eyes-Veronica chamaedrys
Angel's trumpet-Datura arborea
Arabis-Arabis alpina
Arenaria (sandworts)-Arenaria spp.
Arrowhead-Sagittaria spp.
Artemisia (wormwood)-Artemisia spp.
Artillery plant-Pilea microphylla
Arum-Arum spp.
Asparagus (fern, sprenger)-Asparagus spp.
Aster, China-Callistephus chinensis
Aubrietia-Aubrietia deltoides
Bachelor's buttons-Centaurea cyanus
Balloon-flower-Platycodon grandiflorum
Balloon-vine-Cardiospermum spp.
Balsam-Impatiens balsamina
Basketflower-Centaurea americana
Beard tongue-Pentstemon spp.
Bedstraw-Galium spp.
Begonia-Begonia spp.
Bellflower, carpathian-Campanula carpatica
Bellflower, cup and saucer-Campanula calycanthema
Bellflower, Chilean-Lapageria rosea
Bellflower, giant-Ostrowskia magnifica
Bellflower, Japanese-Platycodon spp.
Bellflower, peach-Campanula persicifolia
Bells of Ireland-Molucella laevis
Bellwort-Uvularia spp.
Bittersweet, false-Celastrus scandens
Blackberry lily-Belamcanda chinensis
Blessed thistle-Cnicus benedictus
Blister cress-Erysimum spp.
Bloodroot-Sanguinaria canadensis
Bluebell-Campanula rotoundifolia
Blue lace flower-Didiscus coerulea
Blue sage-Salvia patens
Browallia-Browallia spp.
Bugle-Ajuga spp.
Bugloss, cape-Anchusa capensis
Bugloss, Italian-Anchusa italica
Calceolaria-Calceolaria spp.
Calendula-Calendula officinalis
California poppy-Eschscholtzia californica
Calliopsis-Coreopsis spp.
Candytuft-Iberis spp.
Canterbury bells-Campanula spp.
Cape plumbago-Plumbago capensis
Cardinal climber-Ipomoea spp.
Carnation-Dianthus caryophyllus
Cathedral bells-Cobaea scandens
Celosia-Celosia argentea
Chilean bells-Lapageria lanceolata
Chinese forget-me-not-Cynoglossum amabile
Christmas cherry-Solanum pseudocapsicum
Chrysanthemum-Chrysanthemum spp.
Cineria, common-Senecio cruentus
Clarkia-Clarkia elegans
Clary-Salvia sclarea
Cleome-Cleome gigantea
Cohosh (baneberry)-Actaea spp.
Coleus-Coleus blumei
Columbine-Aquilegia spp.
Comfrey-Symphytum spp.
Coral bells-Heuchera sanguinea
Coreopsis, perennial-Coreopsis lanceolata
Cornflower-Centaurea cyanus
Corn poppy-Papaver rhoeas
Cosmos-Cosmos spp.
Creeping Jenny-Lysimachia nummularia
Crossandra-Crossandra infundibuliformis
Crosswort-Crucianella spp.
Crowfoot (buttercup)-Ranunculus spp.
Cupflower-Nierembergia spp.
Cupid's dart-Catananche coerulea
Cushion pink-Silene acaulis
Cyclamen-Cyclamen africanum
Cypress-Alternifolius gracilis
Cypress vine-Quamoclit spp.

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Dahlia-Dahlia spp.
Daisy, African-Dimorphotheca aurantiaea
Daisy, African lilac-Arctosis grandis
Daisy, Arctic-Chrysanthemum arctica
Daisy, blue-Felicia amelloides
Daisy, English-Bellis perennis
Daisy, giant-Chrysanthemum uliginosum
Daisy, gloriosa-Echinacea purpurea
Daisy, Korean-Chrysanthemum corcanum
Daisy, monarch-Venidium fastuosum
Daisy, painted-Chrysanthemum coccineum
Daisy, Paris-Chrysanthemum frutescens
Daisy, shasta-Chrysanthemum maximum
Daisy, swan river-Brachycome iberidifolia
Daisy, tahoka-Machaeranthera tanacetifolia
Daisy, tidy tips-Layia elegans
Daisy, transvaal-Gerbera jamesoni
Delphinium-Delphinium spp.
Desmodium-Desmodium spp.
Diamond flower-Ionopsidium acaule
Dianthus-Dianthus spp.
Dracaena-Dracaena indivisa
Dusty miller-Centaurea spp.
Euphorbia-Euphorbia spp.
Everlasting pea-Lathyrus latifolius
Fairy bells-Disporum spp.
Fire pink-Silene virginica
Firethorn-Pyracantha coccinea
Fireweed-Epilobium augustifolium
Flax-Linum spp.
Fleabane-Erigeron spp.
Flower of an hour-Hibiscus trionum
Forget-me-not (dwarf)-Anchusa myosotidiflora
Foxglove-Digitalis spp.
Fuschia (eardrops)-Fuschia spp.
Gaillardia-Gaillardia spp.
Gay feather-Liatris spp.
Gazania, pied-Gazania slendens
Geranium-Geranium spp.
Geum-Geum spp.
Gilia-Gilia spp.
Gladiolus-Gladiolus spp.
Globe amaranth-Gomphrena globosa
Globe flower-Trollius caucasicus
Globe thistle-Echinops spp.
Gloxinia-Sinningia speciosa
Goats beard-Trapopogon spp.
Godetia-Godetia amoena, G. grandiflora
Golden seal-Hydrastis canadensis
Goldilocks-Linosyris vulgaris
Gourds, ornamental, various-Cucurbita spp.
Gypsophila-Gypsophila spp.
Hearts and honey vine-Ipomoea spp.
Helichrysum-Helichrysum monstrosum
Heliopsis-Heliopsis spp.
Heliotrope-Heliotropium spp.
Helipterum-Helipterum roseum
Hesperis-Hesperis spp.
Hibiscus-Hibiscus spp.
Hollyhock-Althea rosea
Horned rampion-Phyteuma spp.
Hounds tongue-Cynoglossum spp.
Hyacinth bean-Dolichos lablab
Iceland poppy-Papaver nudicaule
Iceplant-Cryophytum crystallinum
Impatiens sultani-Impatiens sultani
Incense plant-Humea elegans
Indian paint (gromwell)-Lithospermum canescens
Jack-in-the-pulpit-Arisaema triphyllum
Jacob's ladder-Polemonium caeruleum
Japanese iris-Iris kaempferi
Jerusalem oak-Chenopodium botrys
Jessamine-Jasminum spp.
Job's tears-Coix lacryma-jobi
Kalanchoe-Kalanchoe spp.
Kochia-Kochia childsii
Kudzu bean-Pueraria thunbergiana
Lantana-Lantana camara
Larkspur, annual-Delphinium ajacis
Lavender-Lavandula spp.
Leadwort-Plumbago spp.
Leopards bane-Doronicum spp.
Ligularia-Ligularia spp.
Lily, regal-Lilium regale
Linaria-Linaria spp.
Lobelia, annual-Lobelia erinus
Lunaria, annual-Lunaria annua
Lungwort-Pulmonaria spp.
Lupine-Lupinus spp.
Lychnis-Lychnis spp.
Marigold-Tagetes spp.
Marsh-mallow-Althea officinalis

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Marvel of Peru-Mirabilis jalapa
Matricaria-Matricaria spp.
May-apple-Podophyllum spp.
Meadow-rue-Thalictrum spp.
Mealycup sage-Salvia farinacea
Mexican poppy-Argemone spp.
Mexican tulip poppy-Hunnemannia fumariaefolia
Mignonette-Reseda odorata
Milfoil-Achillea millefolium
Mist flower-Eupatorium coelestinum
Monarch of the veldt-Venidium fastuosum
Monkey flower-Mimulus spp.
Monkshood-Aconitum spp.
Moonflower-Ipomoea calonyction
Morning glory-Ipomoea spp.
Moss pink-Phlox subulata
Myosotis-Myosotis spp.
Myrrh-Myrrhis odorata
Nasturtium-Tropaeolum spp.
Navelwort-Omphalodes spp.
Nemesia-Nemesia spp.
Nemophila-Nemophila insignis
Nicotiana-Nicotiana spp.
Nierembergia-Nierembergia spp.
Nigella-Nigella damascena
Obedient-plant Physostegia spp.
Oenothera-Oenothera spp.
Oriental poppy-Papaver orientale
Ornamental grasses-Gramineae spp.
Painted tongue-Salpiglossis spp.
Pansy-Viola tricolor
Papyrus-Cyperus papyrus
Peachbell flower-Campanula persicifolia
Pearl, The-Achillea ptarmica
Penstemon-Penstemon spp.
Peppermint-Mentha piperita
Petunia-Petunia spp.
Phacelia-Phacelia spp.
Phlox, annual-Phlox drummondi (all types and varieties)
Physalis-Physalis spp.
Plantain lily-Hosta spp.
Portulaca-Portulaca grandiflora
Primrose-Primula spp.
Queen Anne's lace-Chaerophyllum dasycarpum
Ranunculus-Ranunculus spp.
Red ribbons-Eucharidium concinnum
Red-valerian-Centranthus ruber
Rockfoil-Saxifraga spp.
Rock rose-Cistus spp.
Royal centaurea-Centaurea imperialis
Sand-verbena-Abronia spp.
Sanvitalia-Sanvitalia procumbens
Saponaria-Saponaria spp.
Scabiosa, annual-Scabiosa atropurpurea
Scabiosa, perennial-Scabiosa caucasica
Scarlet runner-Phaseolus coccineus
Scarlet sage-Salvia splendens
Schizanthus-Schizanthus spp.
Sea-holly-Eryngium maritimum
Sensitive plant-Mimosa pudica
Shamrock-Oxallis acetosella
Shamrock-pea-Parochetus communis
Snail flower-Phaseolus coracalla
Snake root-Cimicifuga spp.
Snapdragon-Antirrhinum spp.
Sneeze weed-Helemium spp.
Snow-in-summer-Cerastium tomentosum
Snow-on-the-mountain-Euphorbia marginata
Solanum-Solanum spp.
Solomon's seal-Polygonatum spp.
Speedwell-Verionica spp.
Spider plant-Cleome spinosa
Statice-Statice spp.
Stocks: Common-Mathiola incana; Evening scented-Mathiola bicornis, Virginia stocks-Malcolmia maritima
Stone-cress-Aethionema spp.
Stonecrop-Sedum spp.
Strawflower-Helichrysum bracteatum
Sundew-Drosera spp.
Sunflower-Helianthus spp.
Sweet-fern-Comptonia asplenifolia
Sweet pea-Lathyrus spp.
Sweet sultan-Centaurea moschata
Thoroughwort-Eupatorium spp.
Thumbergia-Thumbergia spp.
Torch flower-Tithonia speciosa
Torch lily-Kniphofia uvaria
Torenia-Torenia spp.
Tulip poppy-Papaver glaucum
Tunic-flower-Tunica saxifrago
Turkey-beard-Xerophyllum spp.
Turtle-head-Chelone spp.
Twisted-stalk-Streptopus spp.
Unicorn-plant-Proboscidea jussieui
Velvet centaurea-Centaurea gymnocarpa

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Venus looking-glass-Specularia speculum-veneris
Verbena, annual-Verbena hybrida
Vinca-Vinca rosea
Violet-Viola spp.
Wake-Robin-Trillium erectum
Wallflower-Cheiranthus cheiri
Wallflower Siberian-Erysimum asperum
Willowleaf oxeye-Buphthalmum salicifolium
Winged everlasting-Ammobium alatum
Wishbone flower-Torenia fournieri
Yarrow-Achillea millefolium
Zinnia-Zinnia spp.

History: 1954 ACS 49, p. 9, Eff. Feb. 14, 1967; 1954 ACS 79, p. 29, Eff. May 22, 1974.

R 285.714.5 Forest tree seed.

Rule 5. "Forest tree seed" means the following kinds of forest tree seeds usually grown in nurseries and forests in this state which are generally known and sold under the name of forest tree seeds:

Ash, black-Fraxinus nigra
Ash, green-Fraxinus pennsylvanica
Ash, green-Fraxinus pennsylvanica var. lanceolata (Borkh.) Sarg.
Ash, white-Fraxinus americana
Aspen, bigtooth-Populus grandidentata
Aspen, quaking-Populus tremuloides
Basswood, American-Tilia americana
Beech, American-Fagus grandifolia
Butternut-Umbellularia calfornica
Cedar-Juniper Virginiana
Cedar, Northern-Thuja occidentalis
Cherry, black-Prunus serotina
Chestnut, American-Castanea dentata
Cottonwood, eastern-Populus deltoides
Elm, American-Ulmus americana L.
Elm, rock-Ulmus thomasii
Elm, slippery-Ulmus rubra
Fir, balsam-Abies balsamea
Fir, douglas-Pseudotsuga menziesii var. menziesii
Fir, fraser-Abies fraseri
Fir, white-Abies concolor
Hemlock, eastern-Tsuga canadensis
Hickory, bitternut-Carya cordiformis
Hickory, pignut-Carya glabra
Hickory, shagbark-Carya ovata
Hickory, shellbark-Carya lacinoisa
Locust, black-Robinia pseudoacacia L.
Locust, honey-Gleditsia triacanthos L.
Maple, red-Acer rubrum L.
Maple, silver-Acer saccharinum L.
Maple, sugar-Acer saccharum
Oak, black-Quercus velutina
Oak, pin-Quercus ellipsoidalis
Oak, red-Quercus rubra
Oak, swamp white-Quercus bicolor
Oak, white-Quercus alba
Pine, Austrian-Pinus nigra
Pine, eastern white-Pinus strobus
Pine, jack-Pinus banksiana
Pine, red-Pinus resinosa
Pine, Scotch-Pinus sylvestris
Poplar, yellow-Liriodendron tulipifera
Spruce, black-Picea mariana
Spruce, blue-Picea pungens
Spruce, Colorado blue-Picea pungens var. glauca
Spruce, Norway-Picea abies (L.)
Spruce, white-Picea glauca
Sycamore, American-Platanus occidentalis
Tamarack-Larix laricina
Walnut, black-Juglans nigra

History: 1954 ACS 49, p. 11, Eff. Feb. 14, 1967.

R 285.714.6 Authentic hybrids.

Rule 6. "Authentic hybrids" as applied to "other agricultural, flower, or vegetable seed" referred to in section 2(22) of the act means the first generation seed reconstituted on each occasion by controlled pollination and by crossing 2 or more breeding stocks maintained either by inbreeding, or as clones, or recurrently made as hybrids and which will produce an assemblage of plants with uniform characteristics.

History: 1954 ACS 49, p. 12, Eff. Feb. 14, 1967.

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R 285.714.7 Lawn seed information on labels.

Rule 7. For lawn seed mixtures the requirement of section 4(b) of the Michigan seed law as to information on the label or tag may be met by naming the kind, or kind and variety, of seed components in the order of their predominance under separate headings "fine textured grasses" and "coarse kinds." The following shall be named as "fine textured grasses" and all other kinds must be listed under "coarse kinds:"

Colonial bentgrass-Agrostis tenuis
Creeping bentgrass-Agrostis palustris Huds.
Velvet bentgrass-Agrostis canina
Kentucky bluegrass-Poa pratensis including all varieties.
Rough bluegrass-Poa trivialis
Wood bluegrass-Poa nemoralis
Canada bluegrass-Poa compressa
Red fescue-Festuca rubra
Chewings fescue-Festuca rubra var. commutata
Sheep fescue-Festuca ovina

History: 1954 ACS 49, p. 12, Eff. Feb. 14, 1967.

R 285.714.8 Treated seed labels.

Rule 8. Any seed or mixture thereof for seeding purposes that has been treated shall be labeled in type no smaller than 12 point to indicate that the seed has been treated and to show the name of any substance or process used in the treatment. Seeds treated with mercurials or with materials such as aldrin, demetron, dieldrin, endrin, heptachlor, and similar toxic substances shall be labeled to show a representation of a skull and crossbones at least twice the size of the type required followed by the words "poison" or "poison treated" and shall be printed in red on a background of distinctly contrasting color. A statement worded substantially as follows, "Do not use for food, feed, or oil purposes," shall follow the signal words "poison" or "poison treated."

History: 1954 ACS 49, p. 12, Eff. Feb. 14, 1967.

R 285.714.11 Vegetable and herb seed germination standards.

Rule 11. The following minimum germination standards including hard seeds shall apply for a vegetable and herb seed kinds listed. If a minimum standard is not given for a kind listed in R 285.714.3, the minimum germination shall be 60%.

	Percent		Percent
Anise	50	Cabbage, Chinese	75
Asparagus	70	Cabbage, tronchuda	75
Asparagusbean	75	Cantaloupe (see muskmelon)	
Beans, garden (all varieties)	70	Caraway	55
Bean, lima	70	Carrot	55
Bean, runner	75	Catnip	40
Beet, garden	65	Cauliflower	75
Broadbean	75	Celeriac	55
Broccoli	75	Celery	55
Brussels sprouts	70	Chard, Swiss	65
Cabbage	75	Chicory	65

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	Percent		Percent
Chives	50	Okra	50
Citron	65	Onion	70
Collards	80	Onion, Welsh	70
Coriander	70	Pak-choi	75
Corn, sweet	75	Pea	80
Cornsalad	70	Pepper	55
Cowpea	75	Pumpkin	75
Cress, garden	75	Radish	75
Cress, water	40	Rutabaga	75
Cucumber	80	Salsify	75
Endive	70	Savory	55
Fennel	50	Sorrel	65
Kale, all varieties	75	Soybean	75
Kohlrabi	75	Spinach, New Zealand	40
Lavender	40	Squash	75
Lettuce	80	Thyme	50
Marjoram, sweet	50	Tomato	75
Muskmelon	75	Tomato, Husk	50
Mustard, India	75	Turnip	80
Mustard, spinach	75	Watermelon	70

History: 1954 ACS 49, p. 12, Eff. Feb. 14, 1967; 1954 ACS 79, p. 32, Eff. May 22, 1974.

R 285.714.12 Flower seed germination standards.

Rule 12. The following minimum germination standards including hard seeds shall apply for flower seed kinds listed. If a minimum standard is not given for a kind listed in R 285.714.4, the minimum germination shall be 60%.

	Percent		Percent
Anemone	55	Dianthus	70
Aster, China	50	Dracena	55
Aubrietia	45	Gaillardia, annual	45
Balsam	70	Geum	55
Bellflower, carpathian and peach	50	Gilia	65
Calendula	65	Godetia	65
Calliopsis	65	Gourds	70
Candytuft, annual	65	Gypsophila	70
Candytuft, perennial	55	Hollyhock	65
Cathedral bells	65	Job's tears	70
Celosia	65	Kochia	55
Chinese forget-me-not	55	Lantana	35
Chrysanthemum, annual	40	Linaria	65
Clarkia	65	Lobelia, annual	65
Cleome	65	Lunaria, annual	65
Columbine	50	Lupine	65
Coral bells	55	Marigold	65
Coreopsis, perennial	40	Mignonette	55
Cosmos	65	Myosotis	50
Dahlia	55	Nemesia	65
Daisy, African and English	55	Nemophila	70
Delphinium	70	Nicotiana	65
		Nierembergia	55

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	Percent		Percent
Nigella	55	Sunflower	65
Petunia	45	Sweet pea	75
Phacelia	65	Sweet pea, dwarf bush	65
Phlox, annual	55	Torch flower	70
Portulaca	55	Torch lily	65
Salvia: scarlet sage; mealycup sage	50	Verbena, annual	35
Scabiosa, annual	50	Violet	55
Scabiosa, perennial	40	Wallflower	65
Shasta daisy	65	Zinnia (except linearis and creeping)	65
Snapdragon	55	Zinnia, linearis and creeping	50
Stocks: common, evening scented	65		

History: 1954 ACS 49, p. 13, Eff. Feb. 14, 1967; 1954 ACS 79, p. 32, Eff. May 22, 1974.

R 285.714.13 Forest tree seed germination standards.

Rule 13. Forest tree seed except the species pinus, picea, and populus, that show no germination or distinctly weak vitality, or produce so few seedlings that it will be impossible to obtain a satisfactory stand in the area planted, using normal seeding rates, shall be considered as failing to meet germination standards and unfit for planting. The minimum germination standard for the species pinus, picea, and populus shall be 60%.

History: 1954 ACS 49, p. 14, Eff. Feb. 14, 1967.

R 285.714.15 Hermetically sealed containers.

Rule 15. A germination test for seed in hermetically sealed containers shall apply for a period of 36 months if the following conditions are met:

(a) The seed was packaged within 9 months after harvest.

(b) The container used does not allow water vapor penetration (WVP) through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100 degrees Fahrenheit with a relative humidity (RH) on 1 side of 90% and on the other side of 0%. Water vapor penetration is measured by the standards of the United States bureau of standards as:

Gm. H_2O/24 hr./100 sq. in./100 degrees Fahrenheit/90% RH V.0% RH.

(c) The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below:

Agricultural Seeds

Seeds	Percent	Seeds	Percent
Beet, field	7.5	Fescue, red	8.0
Beet, sugar	7.5	Ryegrass, annual	8.0
Bluegrass, Kentucky	6.0	Ryegrass, perennial	8.0
Clover, crimson	8.0	All others	6.0

Vegetable Seeds

Seeds	Percent	Seeds	Percent
Bean, garden	7.0	Broccoli	5.0
Bean, lima	7.0	Brussels sprouts	5.0
Beet	7.5	Cabbage	5.0

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Seeds	Percent	Seeds	Percent
Carrot	7.0	Mustard, India	5.0
Cauliflower	5.0	Onion	6.5
Celeriac	7.0	Onion, Welsh	6.5
Celery	7.0	Parsley	6.5
Chard, Swiss	7.5	Parsnip	6.0
Chinese cabbage	5.0	Pea	7.0
Chives	6.5	Pepper	4.5
Collards	5.0	Pumpkin	6.0
Corn, sweet	8.0	Radish	5.0
Cucumber	6.0	Rutabaga	5.0
Eggplant	6.0	Spinach	8.0
Kale	5.0	Squash	6.0
Kohlrabi	5.0	Tomato	5.5
Leek	6.5	Turnip	5.0
Lettuce	5.5	Watermelon	6.5
Muskmelon	6.0	All others	6.0

(d) The container is conspicuously labeled in not less than 8 point type to indicate:

(i) That the container is hermetically sealed.

(ii) That the seed has been preconditioned as to moisture content.

(iii) The calendar month and year in which the germination test was completed.

(e) The percentage of germination of vegetable seed at the time of packaging was equal to or above the standards in R 285.714.11.

History: 1954 ACS 79, p. 33, Eff. May 22, 1974.

R 285.714.21 Fees for testing seeds.

Rule 21. (1) The fees for testing bentgrass, bluegrass, bromegrass, canarygrass, fescues, orchardgrass and red top are $3.50 for each combined purity and noxious weed determination and $3.50 for each germination determination. The fees for testing any other agricultural, vegetable, flower or herb seed named in R 285.714.2, R 285.714.3, and R 285.714.4 are $2.50 for each combined purity and noxious weed determination and $2.50 for each germination determination.

(2) The fees for testing forest tree seeds defined in R 285.714.5 are $2.50 for purity and $3.50 for germination. All mixtures will be charged at the total of rates determined by each component up to but not exceeding the $15.00 maximum specified in subdivision (e) of section 11 of the act. Special determinations (tetrazolium, cold tests, soil or sand, embryo excision) will be charged at $6.00 per hour for analysts' time. The fee for testing seed samples for sod production (a special determination on bluegrass seed for bentgrass and poa annua) is $15.00 per sample.

History: 1954 ACS 49, p. 14, Eff. Feb. 14, 1967; 1954 ACS 79, p. 34, Eff. May 22, 1974.

R 285.714.31 Rescission.

Rule 31. Regulations Nos. 700, 702, 703, 705, 706, 707, 708, 709, 711, 712, and 713 being R 285.700, R 285.702, R 285.703, R 285.705, R 285.706, R 285.707, R 285.708, R 285.709, R 285.711, R 285.712, and R 285.713 and appearing on pages 1560 to 1565 of the 1954 volume of the Michigan Administrative Code, are rescinded.

History: 1954 ACS 49, p. 14; Eff. Feb. 14, 1967.

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FINANCE DIVISION

REGULATION NO. 801. ALLOCATION OF MONEY TO INCREASE FAIR PURSES

R 285.801 Rescinded.

History: 1944 ACS 21, p. 5; 1944 ACS 37, p. 6; 1954 AC, p. 1565; 1954 ACS 7, p. 15, Eff. Aug. 14, 1956; 1954 ACS 22, p. 54, Eff. May 13, 1960; 1954 ACS 30, p. 9, Eff. May 15, 1962; 1954 ACS 38, p. 44, Eff. May 15, 1964; 1954 ACS 43, p. 12, Eff. Aug. 14, 1965; rescinded 1954 ACS 62, p. 14, Eff. May 18, 1970.

REGULATION NO. 802. ALLOCATION OF MONEY FOR PAYMENT OF PREMIUMS

R 285.802 Rescinded.

History: 1944 ACS 22, p. 6; 1944 ACS 37, p. 7; 1954 AC, p. 1566; 1954 ACS 22, p. 55, Eff. May 13, 1960; 1954 ACS 38, p. 45, Eff. May 15, 1964; rescinded 1954 ACS 40, p. 7, Eff. Nov. 14, 1964.

REGULATION NO. 803. SPECIAL PURSES

R 285.803 Rescinded.

History: 1954 ACS 7, p. 16, Eff. Aug. 14, 1956; 1954 ACS 11, p. 6, Eff. Aug. 14, 1957; rescinded 1954 ACS 63, p. 15, Eff. Aug. 14, 1970.

REGULATION NO. 804. RACE TRACK IMPROVEMENT

R 285.804 Reimbursement to county fairs for race track improvement.

Rule 1. County fairs shall be eligible for reimbursement on a matching basis, but not to exceed a total of $2,500.00 to any 1 fair for the 3-year period of 1956, 1957, and 1958, for the purpose of repairing and otherwise making the race track more suitable and safe for racing at said county fair upon complying with the following requirements:

(a) File with the director of agriculture plans, specifications, or an adequate and complete description of the proposed project for repairing and improving the race track, together with a statement of the estimated cost thereof.

(b) Obtain the approval of the director of agriculture for reimbursement for ½ of the actual cost of the project, prior to commencement thereof.

(c) Submit to the director of agriculture a sworn statement showing completion of the project, together with 2 copies of receipts showing that all costs thereof have been paid in full.

History: 1954 ACS 7, p. 18, Eff. Aug. 14, 1956.

FAIRS DIVISION

REGULATION NO. 805. MATCHING ASSISTANCE TO FAIRS

(By authority conferred on the commission of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, and sections 9 and 178 of Act No. 380 of the Public Acts of 1965, being §§431.43, 16.109, and 16.278 of the Michigan Compiled Laws)

R 285.805.1 Definitions.

Rule 1. As used in these rules:

(a) "Association" means a corporation organized under a law of this state and governed by an elected board of directors, or an association or board functioning under Act No. 11 of the Public Acts of 1929, being §§46.151 to 46.153 of the Michigan Compiled Laws, and which conducts a fair.

(b) "Commission" means the commission of agriculture.

(c) "Department" means the department of agriculture.

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(d) "Director" means the director of agriculture.

(e) "Fair" means a competitive and educational exhibition of agricultural commodities and manufactured products for which premiums are paid, which is conducted by an association or state agency.

(f) "Fair buildings" means the buildings which are primarily used for fair purposes and which are owned by a fair association or a political subdivision.

(g) "Project" means each individual job or equipment rental on an application, giving a detailed description of the work to be done or equipment to be rented.

(h) "Race track" means a track used primarily for horse races, and may include the fence around the track, hubrail and infield.

(i) "Equipment" means the implements or apparatus used during the operation of a fair.

(j) "Grounds" means the land which is primarily used for fair purposes and which is owned by a fair association or a political subdivision.

History: 1954 ACS 20, p. 7, Eff. Nov. 14, 1959; 1954 ACS 26, p. 35, Eff. May 15, 1961; 1954 ACS 80, p. 10, Eff. June 19, 1974.

R 285.805.2 Qualifications for allotments.

Rule 2. (1) A fair shall have been conducted for a period of not less than 3 years before the time of application for matching assistance.

(2) Matching assistance may be made only to a fair association which does not receive state funds for building, race track, grounds improvement and equipment rental projects directly from any other source for the same project.

History: 1954 ACS 20, p. 8, Eff. Nov. 14, 1959; 1954 ACS 26, p. 35, Eff. May 15, 1961; 1954 ACS 80, p. 10, Eff. June 19, 1974.

R 285.805.3 Application and approval for allotments.

Rule 3. (1) The president and secretary of an association requesting funds shall file a proper application on forms provided by the department, in duplicate, with the director as follows:

(a) A complete description of each proposed project.

(b) An estimated cost of each project.

(2) Each application shall be accompanied by:

(a) A resolution passed by the fair's board of directors, or its duly authorized executive committee approving the application.

(b) Complete plans and specifications, where applicable, signed and sealed by a registered architect or registered professional engineer.

(3) The president or secretary shall submit such additional information as may be required by the director in considering the application.

(4) Projects not started within 12 months after written approval are void and shall be resubmitted on a new application.

(5) Any cost encumbered on a project, excluding charges for plans and specifications, prior to written approval from the department, renders that portion of the project ineligible for state funds.

History: 1954 ACS 20, p. 8, Eff. Nov. 14, 1959; 1954 ACS 26, p. 35, Eff. May 15, 1961; 1954 ACS 80, p. 10, Eff. June 19, 1974.

R 285.805.4 Completion of application.

Rule 4. (1) Within 120 days after completion of the project on application and acceptance by the fair board or authorized officials of the fair, the president and secretary of the fair shall submit the following to the department:

(a) Two copies of a sworn statement that all projects are completed and paid and that all state and local ordinances pertaining to building codes have been complied with.

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(b) An itemized listing of materials and services for each project listed on the application other than that covered by a contract, listing items purchased and amounts paid for materials and services.

(c) An itemized listing of labor, other than that covered by a contract, listing the names and addresses of the payees, dates worked, hours worked, and amounts paid.

(d) Properly receipted itemized invoices pertaining to the project, including a copy of contracts where applicable.

(e) Notice of cancellation of any project not undertaken on the application.

(2) The fair association shall provide any additional information requested by the director necessary in the auditing of a project. Subdivisions (a) and (c) of subrule (1) shall be submitted on the forms provided by the department.

History: 1954 ACS 80, p. 11, Eff. June 19, 1974.

R 285.805.5 Final approval.

Rule 5. After the completion of the projects listed on the application, the department shall conduct an inspection of the completed projects to determine that:

(a) The projects comply with the description or plans submitted on the application.

(b) All services and material claimed for the project have been used in that project.

(c) The work has been performed in a manner satisfactory to the department.

History: 1954 ACS 80, p. 11, Eff. June 19, 1974.

R 285.805.6 Allotments.

Rule 6. (1) If the completed projects meet the requirements in R 285.805.5, the material submitted will be audited and the fair association reimbursed for ½ of the approval cost, not to exceed $4,000.00 in any 1 fiscal year, unless otherwise authorized by the legislature.

(2) State funds available to a fair association may be carried forward into the next or following fiscal year if projects have been approved by the department by June 15 and started by June 30 of the initial fiscal year.

History: 1954 ACS 80, p. 11, Eff. June 19, 1974.

REGULATION NO. 806. HARNESS RACES AT FAIRS

R 285.806.1, R. 285.806.2 Rescinded.

History: 1954 ACS 38, p. 47, Eff. May 15, 1964; rescinded 1954 ACS 62, p. 14, Eff. May 18, 1970.

REGULATION NO. 807. PURSES FOR MICHIGAN-BRED HORSES

R 285.807.1—R 285.807.4 Rescinded.

History: 1954 ACS 20, pp. 9, 10, Eff. Nov. 14, 1959; 1954 ACS 35, pp. 40, 41, Eff. Aug. 14, 1963; 1954 ACS 38, pp. 48, 49, Eff. May 15, 1964; rescinded 1954 ACS 72, p. 10, Eff. July 19, 1972.

REGULATION NO. 808. PAYMENT OF BREEDERS' AWARDS

(By authority of section 13 of Act No. 27 of the Public Acts of 1959, as amended, being §431.43 of the Michigan Compiled Laws)

R 285.808.1 Definitions.

Rule 1. (1) "Licensed track" shall mean an association licensed by the Michigan racing commission to conduct harness horse races in Michigan.

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(2) "Fair" shall mean any county, district or community fair approved to conduct harness horse races during its fair.

(3) "Michigan-bred horse" shall be a horse from a Michigan-owned mare at the time of breeding by a Michigan-owned sire standing in Michigan for a full calendar year. Mares shall be registered with the director of agriculture. Starting in 1965, all mares not previously registered must be registered prior to April 1 of each racing season.

(4) "Breeder" shall mean the person owning the mare at the time of breeding.

(5) "Director" shall mean the director of agriculture.

History: 1954 ACS 40, p. 5, Eff. Nov. 14, 1964.

R 285.808.2 Breeders' awards.

Rule 2. (1) The director of agriculture shall pay a breeder's award to the breeder of any Michigan-bred horse winning any race (every heat a race), in an amount equal to 10% of the gross purse.

(2) Rights to breeders' awards are not assignable and there shall be no obligation to the director of agriculture to pay said awards other than stipulated herein.

(3) Breeders' awards under this rule shall be paid by the Michigan department of agriculture to the breeders of winning Michigan-bred horses, provided the mare is Michigan-owned and registered with the director of agriculture.

(4) Payment of breeders' awards will be processed once each year at the close of the racing season, except that payment for races conducted at licensed tracks up to June 30 shall be processed immediately after June 30.

History: 1954 ACS 40, p. 5, Eff. Nov. 14, 1964.

R 285.808.3 Responsibilities.

Rule 3. (1) Licensed racing associations shall provide the director of agriculture copies of each day's race program at least once each week. The winner of each race shall be checked on said program and certified as being the true winner.

(2) The secretary of the fair shall provide the director of agriculture copies of each day's race program, along with the harness horse race result sheet (form FF-18), for the fair's races. The winner of each race shall be checked on said program and certified as being the true winner.

(3) In case of question of eligibility of a breeder to receive a breeder's award, the burden of proof of ownership of Michigan-bred mares, or compliance with the requirement that sires have stood in Michigan for the full calendar year, shall rest with the breeder.

History: 1954 ACS 40, p. 5, Eff. Nov. 14, 1964.

R 285.808.4 Penalties.

Rule 4. Any person claiming awards contrary to the provisions of these rules shall be ineligible for future breeders' awards in this state.

History: 1954 ACS 40, p. 5, Eff. Nov. 14, 1964.

REGULATION NO. 809. ALLOCATION OF MONEY FOR PAYMENT OF PREMIUMS

R 285.809 Rescinded.

History: 1954 ACS 40, p. 6, Eff. Nov. 14, 1964; rescinded 1954 ACS 55, p. 14, Eff. Aug. 14, 1968.

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REGULATION NO. 810.
THOROUGHBRED BREEDERS' AWARDS AND STATE SUPPLEMENTS

(By authority conferred on the commission of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, and sections 9 and 178 of Act No. 380 of the Public Acts of 1965, being §§431.43, 16.109, and 16.278 of the Michigan Compiled Laws)

R 285.810.1 Definitions.

Rule 1. (1) "Breeder" means a person or entity owning a mare at the time of foaling for the purpose of registration and eligibility for breeder's award. The lawful lessee of a mare at the time of foaling is deemed the owner of the mare.

(2) "Conditions" means the specification of terms under which a race is conducted.

(3) "Department" means the department of agriculture.

(4) "Director" means the director of the Michigan department of agriculture.

(5) "Foaling year" means the calendar year in which the mare foaled.

(6) "Gross purse" means the track purse plus the state supplement.

(7) "Michigan-bred horse" means a horse that meets the requirements of R 285.810.2.

(8) "Michigan thoroughbred breeders and owners association" means a non-profit corporation consisting of breeders and owners, organized for the purpose of bettering thoroughbred horses.

(9) "State supplement" means money allocated by the director from the state fund for a race conducted exclusively for Michigan-bred horses.

(10) "Thoroughbred racing association" means an association licensed by the Michigan racing commissioner to conduct thoroughbred horse races in Michigan.

(11) "Track purse" means the money offered by a thoroughbred racing association for 1 race, not including a state supplement.

History: 1954 ACS 72, p. 8, Eff. July 19, 1972; 1954 ACS 87, p. 19, Eff. June 15, 1976.

R 285.810.2 Eligibility of foals for breeders' awards and state supplements.

Rule 2. (1) Eligibility for breeders' awards and state supplements is established upon compliance with the following:

(a) Commencing in 1971, registration of a mare with the director by December 1 of the year the mare was bred.

(b) Commencing in 1974, a foal of 1972, and thereafter, by a mare which was in Michigan on December 1 of the year the mare was bred and remained in the state thereafter until foaling, and for not less than a total of 7 months of the foaling year.

(c) Notification of the director in writing within 30 days prior to the departure from Michigan of a registered mare, and within 30 days after the date the mare returns to Michigan.

(2) In the case of a breeder who has complied with all other rules, the director, after review of the circumstances involved, and a finding that the failure to comply was not deliberate, may waive the date requirements of subrule (1)(a), (b), or (c). To assist the director in determining the circumstances and merit of any requested exception or waiver, an advisory review panel is established consisting of the following 4 persons:

(a) The president or his designee of the thoroughbred breeders and owners association.

(b) The racing commissioner or his designee.

(c) The president or his designee of the horsemen's protective and benevolent association.

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(d) A member of the department of agriculture designated by the director, who shall act as chairman.

(3) A certificate of eligibility shall be issued by the director for a Michigan-bred horse foaled in 1972 or thereafter. This certificate shall accompany the jockey club certificate at the time of entry in a race.

(4) The jockey club, inc., will be considered the official record in determining the eligibility of a Michigan-bred horse foaled before 1972.

History: 1954 ACS 72, p. 9, Eff. July 19, 1972; 1954 ACS 87, p. 20, Eff. June 15, 1976.

R 285.810.3 Eligibility of races for supplements.

Rule 3. (1) State supplements shall be allocated for the following races:

(a) Michigan-bred thoroughbred races approved by the director.

(b) The Michigan futurity.

(c) The Michigan-bred 2 year-old championship handicap or stake.

(d) Two Michigan-bred 3 year-old handicaps or stakes, 1 of which shall be run each year at each of the thoroughbred tracks operated by a licensed association.

(e) Two Michigan-bred 3 year-old and over handicaps or stakes, 1 of which shall be run each year at each of the thoroughbred tracks operated by a licensed association.

(2) State supplements shall be paid first for races specified under subdivisions (b) to (e) of subrule (1). If funds are not available to provide state supplements for all races approved by the director under subrule (1)(a), then he shall prorate available money at his discretion among the races so run.

(3) At least 1 Michigan-bred race shall be scheduled on each program.

(4) Each association licensed to conduct racing in Michigan shall not offer a lesser track purse (excluding state supplement) for a Michigan-bred race than the track purse offered for a non-Michigan-bred race that is comparable in the judgment of the director.

(5) If the programmed Michigan-bred race does not draw sufficient entries to run, the licensed racing association shall not run a non-Michigan-bred race as a substitute, but shall substitute an approved extra Michigan-bred race.

History: 1954 ACS 72, p. 9, Eff. July 19, 1972.

R 285.810.4 Conditions for races; allocations of state supplements.

Rule 4. (1) The racing association of the track, where Michigan-bred races are to be conducted, shall propose conditions and purses for all Michigan-bred races. The conditions of all Michigan-bred races are subject to the approval of the director. These conditions shall be submitted to the director at least 18 calendar days before the first race is conducted for each condition book.

(2) The allocation of state supplements shall be determined by the director with the advice of the racing commissioner, representative of licensed thoroughbred racing associations and the Michigan thoroughbred breeders and owners association.

(3) The director shall announce, no later than 14 calendar days after receiving the proposed racing conditions, his allocation of state supplements to purses for each of the approved Michigan-bred races in the condition book. If proposed conditions of the Michigan-bred races are not submitted to the director within the time fixed by subrule (1), he may allocate state supplements for Michigan-bred races at his discretion but state supplements may not be allocated later than 96 hours before the first race scheduled in each condition book. State supplements shall not be allocated to Michigan-bred races after races have been run.

History: 1954 ACS 72, p. 9, Eff. July 19, 1972.

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R 285.810.5 Breeders' awards.

Rule 5. (1) The director shall pay a breeder's award to the breeder of Michigan-bred horses for each time such horses win at a licensed track in this state in an amount specified by the law. If more than 1 winner is declared, each breeder is entitled to a full breeder's award. A breeder's award shall not be paid for races won after the date of death of a breeder.

(2) A right to breeder's award is not assignable and the director is not obligated to pay breeders' awards other than as provided herein or in excess of available funds.

History: 1954 ACS 72, p. 10, Eff. July 19, 1972.

R 285.810.6 Payment of breeders' awards and state supplements.

Rule 6. (1) The racing commissioner shall certify to the director at the completion of racing in each condition book, the results of all races won by Michigan-bred horses and names of their owners and breeders.

(2) When eligibility of a breeder to receive a breeder's award is questioned, the burden of proof that a horse was Michigan-bred or is in compliance with these rules is on the breeder.

(3) State supplements may be paid to the owners of winning horses at least twice each year, after June 30 and after December 31 upon certification under R 285.810.6.

(4) Payment of breeders' awards shall be processed at least twice each year, after June 30 and after December 31.

History: 1954 ACS 72, p. 10, Eff. July 19, 1972.

R 285.810.7 Ineligibility for future breeders' awards and state supplements.

Rule 7. A person or entity willfully accepting and retaining a breeder's award or state supplement contrary to these rules is ineligible for future breeders' awards and state supplements in this state.

History: 1954 ACS 72, p. 10, Eff. July 19, 1972.

R 285.810.8 Rescission.

Rule 8. Regulation No. 807, entitled "Purses for Michigan-bred Horses at Licensed Tracks, State Allocations," being R 285.807.1 to R 285.807.4 of the Michigan Administrative Code and appearing on pages 3144 and 3145 of the 1964-65 Annual Supplements to the Code, is rescinded.

History: 1954 ACS 72, p. 10, Eff. July 19, 1972.

REGULATION NO. 811. PREMIUM ALLOTMENTS TO FAIRS AND SHOWS

(By authority conferred on the commission of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, and sections 9 and 178 of Act No. 380 of the Public Acts of 1965, being §§431.43, 16.109, and 16.278 of the Michigan Compiled Laws)

R 285.811.1 Definitions.

Rule 1. As used in these rules:

(a) "Department" means the department of agriculture.

(b) "Commission" means the commission of agriculture.

(c) "Director" means the director of agriculture.

(d) "Association" means a corporation organized under and in compliance with a law of this state and governed by an elected board of directors, or an association

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or board functioning under Act No. 11 of the Public Acts of 1929, being §§46.151 to 46.153 of the Michigan Compiled Laws, and which conducts a fair or show.

(e) "Fair" or "show" means a competitive and educational exhibition of agricultural commodities and manufactured products for which premiums are paid, which is conducted by an association or state agency.

(f) "Exhibit" means an article, item, or educational project entered for public display at a fair or show. Judging shall be during, or not more than 3 days prior to, the opening day of the fair or show. Carcass exhibits and parades may be judged and displayed at a different location. All exhibits shall be judged in competition; however, when there is only 1 entry in a class, the exhibit shall be judged against standards accepted by the association. An association may prescribe alternate arrival and release times for exhibits where adequate facilities are not available.

(g) "Premium" means a prize awarded for exhibits and includes money, ribbons, trophies, and similar items unless otherwise authorized by the commission.

(h) "Premium book or list" means the printed listing of the following: (1) classes identified and numbered in an orderly manner, (2) placing offered for each class, and (3) premium offered for each placing.

(i) "Supplement to the premium book or list" means an addition to the premium book or list submitted with the association's final reports. Each supplement shall be considered a part of the premium book or list for 1 fair season only and shall be included in future premium books or lists to qualify for state premiums.

History: 1954 ACS 55, p. 11, Eff. Aug. 14, 1968; 1954 ACS 79, p. 35, Eff. Mar. 27, 1974; 1954 ACS 93, p. 21, Eff. Oct. 14, 1977.

R 285.811.2 Qualifications for allotments.

Rule 2. (1) An association receiving an allotment shall not limit the entries of the entire fair or show to members of an association or organization.

(2) A fair shall have been conducted for a period of not less than 3 years before the time of application and approved by the commission for financial assistance.

(3) An allotment may be made only to an association which does not receive state funds for premiums directly from any other source.

History: 1954 ACS 55, p. 12, Eff. Aug. 14, 1968; 1954 ACS 62, p. 10, Eff. May 18, 1970; 1954 ACS 79, p. 35, Eff. Mar. 27, 1974; 1954 ACS 93, p. 21, Eff. Oct. 14, 1977.

R 285.811.3 Exhibits eligible for allotments.

Rule 3. All exhibits are eligible except those specifically covered by other department rules.

History: 1954 ACS 55, p. 12, Eff. Aug. 14, 1968; 1954 ACS 62, p. 10, Eff. May 18, 1970; 1954 ACS 79, p. 35, Eff. Mar. 27, 1974; 1954 ACS 93, p. 21, Eff. Oct. 14, 1977.

R 285.811.4 Application and approval for allotments.

Rule 4. (1) Commencing in 1979 the president and secretary of an association requesting state allotments for the payment of premiums shall submit to the department a properly completed application, provided by the county fairs section, on or before July 1 of the second calendar year preceding the fair or show.

(2) The department shall give written notice of approval or disapproval of an application on or before January 10 preceding a fair and not less than 60 days preceding a show.

(3) Any change relating to the original application shall be submitted to the county fairs section for department approval or disapproval not less than 15 days

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before the start of the fair or show as listed on the application. Approval shall not be given after the fair or show has started.

History: 1954 ACS 55, p. 13, Eff. Aug. 14, 1968; 1954 ACS 62, p. 11, Eff. May 18, 1970; 1954 ACS 79, p. 35, Eff. Mar. 27, 1974; 1954 ACS 93, p. 21, Eff. Oct. 14, 1977; 1954 ACS 96, p. 33, Eff. Mar. 16, 1979.

R 285.811.5 Allotments and their use.

Rule 5. (1) The director may advance funds to an association making proper application under R 285.811.4 in an amount not to exceed 60% of the estimated premiums to be paid by the association. After audit, any overpayment to the association for premiums shall be remitted to the department on its request. The department shall send any balance of funds due to the association upon completion of the preliminary audit.

(2) Funds allotted shall be for the payment of not less than 75% of the premiums paid by the association. Premiums for eligible exhibits shall be paid by check directly to each exhibitor.

(3) The commission may approve grants to a regional or statewide agricultural commodity association for payment of premiums at a show sponsored by the association, if it is not connected with, or part of, a fair receiving state funds for such premiums. The use of grants by such an association shall comply with all other provisions of these rules governing the use of state funds, except that the grants may be used to pay the premiums under policy established by the commission for eligible exhibits.

History: 1954 ACS 55, p. 13, Eff. Aug. 14, 1968; 1954 ACS 62, p. 11, Eff. May 18, 1970; 1954 ACS 79, p. 35, Eff. Mar. 27, 1974; 1954 ACS 93, p. 21, Eff. Oct. 14, 1977.

R 285.811.5a Premium book.

Rule 5a. Two copies of the association premium book or list shall be submitted not less than 15 days prior to the opening day of the event to the county fairs section. Exception to this shall be submitted in writing to the county fair section requesting approval.

History: 1954 ACS 93, p. 22, Eff. Oct. 14, 1977.

R 285.811.6 Final reports.

Rule 6. (1) Within 120 days after the close of a fair or show, an association shall submit to the department, unless notified otherwise, all the following properly completed documents:

(a) Original premium statements.

(b) The association's cash disbursement statement, covering a fiscal year which includes the annual fair or show for which state allotments are being requested.

(c) Itemized ribbon and trophy invoices with cancelled checks.

(d) Breakdown of award invoices.

(e) Premium book supplements.

(2) The items prescribed in subdivisions (a), (b), and (d) of subrule (1) shall be submitted on forms provided by the department. The association shall supply the department any additional information required in the auditing of the report.

(3) The association shall keep all records pertaining to payment of premiums available for state auditors for not less than 4 years.

History: 1954 ACS 55, p. 14, Eff. Aug. 14, 1968; 1954 ACS 62, p. 12, Eff. May 18, 1970; 1954 ACS 79, p. 36, Eff. Mar. 27, 1974; 1954 ACS 93, p. 22, Eff. Oct. 14, 1977.

R 285.811.7 Verification of ownership of exhibits.

Rule 7. The director may check registration and ownership of exhibits at fairs and shows. The fairs and shows shall furnish the necessary help to assist in verification of registration and ownership of exhibits.

History: 1954 ACS 62, p. 12, Eff. May 18, 1970.

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R 285.811.8 Noncompliance.

Rule 8. Noncompliance with these rules or any part thereof may result in denial of state funds for the current year or future years, or both.

History: 1954 ACS 93, p. 22, Eff. Oct. 14, 1977.

Editor's note: This rule was formerly numbered R 285.811.7, but has been renumbered as R 285.811.8 to avoid a conflict with an earlier rule numbered R 285.811.7.

R 285.811.9 Rescission.

Rule 9. Regulation No. 809 of the department governing the allocation of money to fairs for the payment of premiums, as amended, being R 285.809 of the Michigan Administrative Code and appearing on pages 3146 and 3147 of the 1964-65 Annual Supplements to the Code, is rescinded.

History: 1954 ACS 55, p. 14, Eff. Aug. 14, 1968.

REGULATION NO. 812. STATE AID FOR HARNESS HORSE RACING AT FAIRS

(By authority conferred on the commission of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, and sections 9 and 178 of Act No. 380 of the Public Acts of 1965, being §§431.43, 16.109, and 16.278 of the Michigan Compiled Laws)

R 285.812.1 Definitions.

Rule 1. As used in these rules:

(a) "Department" means the Michigan department of agriculture.

(b) "Director" means the director of the department of agriculture.

(c) "Fair" means a county and Upper Peninsula state fair which conducts harness horse races.

History: 1954 ACS 62, p. 13, Eff. May 18, 1970; 1954 ACS 73, p. 7, Eff. Nov. 14, 1972.

R 285.812.2 Eligibility for state aid.

Rule 2. A fair to be eligible for state aid shall file its annual harness horse racing program, to be approved by the director, with the department by February 1 of each year and shall file the reports required by R 285.812.8.

History: 1954 ACS 62, p. 13, Eff. May 18, 1970; 1954 ACS 69, p. 36, Eff. Oct. 4, 1971; 1954 ACS 73, p. 7, Eff. Nov. 14, 1972.

R 285.812.3 Presiding judges.

Rule 3. (1) The department shall hire and approve presiding judges for harness horse races conducted at Michigan fairs. Only judges approved by the director shall preside at harness horse races at fairs.

(2) The director shall assign the presiding judges to the fairs which conduct harness horse racing.

(3) The presiding judge shall approve all associate judges and timers at each fair race meet and rule on the validity of all horses scratched at the fair to which he is assigned.

History: 1954 ACS 62, p. 13, May 18, 1970.

R 285.812.4 Track maintenance; equipment and head numbers.

Rule 4. (1) A race track over which harness horse races may be conducted shall be maintained in a manner so as to make harness horse racing safe. The track shall be adequately drained and kept in a smooth condition during the races and shall be sprinkled between races when necessary. The track condition shall be approved by a representative of the director before any races are conducted over it if purses are paid in part by funds allocated under these rules.

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(2) An approved starting gate and starter shall be used in a harness horse race.

(3) A track shall use an approved photo finish equipment and photographer for all harness horse races. The track shall be reimbursed up to a maximum of $50.00 for each harness horse race program conducted at and during the fair for the payment of approved photo finish operation. Before releasing these state funds the fair shall submit to the director, within 15 days after completion of the harness race program, or June 30, whichever is sooner, receipted invoices and sworn statement covering such photo finish operations.

(4) All harness horse race entries shall be provided with head numbers or saddle pads, or both.

History: 1954 ACS 62, p. 13, Eff. May 18, 1970; 1954 ACS 73, p. 7, Eff. Nov. 14, 1972.

R 285.812.5 Allocations for state aid.

Rule 5. (1) Allocations to a fair for purses for harness horse races shall be made by the director before the races in the following manner:

(a) The allocation shall not exceed 75% of the purses offered by the fair.

(b) The allocation for a purse on an overnight race shall not exceed $1,000.00, except that if an overnight race is conditioned to exclude trotters that are 7 years old or older and pacers that are 6 years old or older, then the allocation shall not exceed $1,500.00.

(c) The allocation for a purse on an early closing 2-year-old filly and colt race shall not exceed $3,000.00; on an early closing 3-year-old filly and colt race, it shall not exceed $3,750.00.

(d) Any other early closing race shall be conditioned for horses 3 through 6 years old, and the allocation for a purse shall not exceed $1,500.00.

(e) The allocation for a purse on a Wolverine futurity race shall be made only after the amount of the purse to be paid by the fair has been determined by public auction conducted after reasonable public notice. The allocation for 3-year-old futurities shall not exceed 75% of the purses offered, and shall not exceed $18,750.00 for each race. Allocation for the Charles Coon memorial futurity shall not exceed $37,500.00 for each race.

(2) State aid shall be used only for the purse which it is allocated or returned to the director within 15 days following completion of the harness horse racing program for the fair.

(3) Any harness horse bred and sired outside of Michigan shall be ineligible to participate in state funds paid at any state, county, district, or community fair harness horse race contest, unless the director gives written permission therefor, or said horse has made 25 starts in betting races at Michigan pari-mutuel tracks, or has been owned by a Michigan resident for 24 consecutive months prior to such start, or was owned by a Michigan resident prior to September 1, 1971. The determining date for Michigan ownership shall be the date on which the United States trotting association processes the transfer of said horse.

(4) A harness horse race whose purse is paid in part or full by state funds may not bar a harness horse sired by a Michigan stallion if the Michigan sired harness horse conforms to the age, gait, sex, and earnings stipulated in the conditions of the race.

History: 1954 ACS 62, p. 13, Eff. May 18, 1970; 1954 ACS 69, p. 36, Eff. Oct. 4, 1971; 1954 ACS 73, p. 7, Eff. Nov. 14, 1972; 1954 ACS 82, p. 11, Eff. Feb. 5, 1975.

R 285.812.6 Split races.

Rule 6. (1) A fair, conducting a split race required under United States trotting association rules, shall not receive an additional allocation to the amounts described in R 285.812.5.

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(2) Not more than 12 horses, with 6 wide per tier, shall be allowed to start a race on a ½-mile track.

History: 1954 ACS 62, p. 13, Eff. May 18, 1970; 1954 ACS 73, p. 7, Eff. Nov. 14, 1972.

R 285.812.6a Consumption of alcoholic beverages.

Rule 6a. A driver shall not drive in a fair harness race, whose purse is paid in part or full by state funds, while under the influence of alcohol. A driver shall submit to a breath analyzer test when directed by a representative of the director and if the results thereof show a reading of more than 0.05% of alcohol in the blood, the person shall not be permitted to drive and shall be in violation of these rules.

History: 1954 ACS 73, p. 7, Eff. Nov. 14, 1972.

R 285.812.7 Hearings.

Rule 7. In the event a provision of these rules or any other rules or state law related to a harness race program is violated, the director shall notify the horse's owner of the violation and shall hold a hearing thereon within 14 days from the date the violation is reported to the director. The owner or his representative may appear and be heard. From testimony taken the director shall render a decision on the eligibility of the owner, his representative, and the animal, or any of them, to participate in state funds paid at the fair or any future state, county, district, or community fair harness horse race.

History: 1954 ACS 62, p. 14, Eff. May 18, 1970; 1954 ACS 73, p. 8, Eff. Nov. 14, 1972.

R 285.812.8 Final reports and preservation of records.

Rule 8. (1) Within 15 days after completion of the harness race program, or June 30, whichever is sooner, an association shall submit to the director originals of the judges' sheets signed by the presiding judge and a sworn statement on forms provided by the director and a copy of the printed race program indicating the order of finish of the horses.

(2) The association shall supply the director any additional information required in the auditing of the report.

(3) Association records pertaining to the payment of purses shall be kept for the state auditors for not less than 3 years.

History: 1954 ACS 62, p. 14, Eff. May 18, 1970; 1954 ACS 73, p. 8, Eff. Nov. 14, 1972.

R 285.812.10 Rescission.

Rule 10. Regulation No. 801, as amended, and Regulation No. 806 of the department of agriculture, being R 285.801, R 285.806.1, and R 285.806.2 of the Michigan Administrative Code, and appearing on pages 3141 to 3143 of the 1964-65 Annual Supplements to the Code, are rescinded.

History: 1954 ACS 62, p. 14, Eff. May 18, 1970.

REGULATION NO. 813.
HARNESS HORSE RACE AND PULLING TEAM STIMULANTS AND DEPRESSANTS

(By authority conferred on the commission of agriculture by sections 13 and 18 of Act No. 27 of the Public Acts of 1959, as amended, sections 2 and 4 of Act No. 197 of the Public Acts of 1952, as amended, and section 178 of Act No. 380 of the Public Acts of 1965, being §§431.43, 431.48, 24.102, 24.104, and 16.278 of the Michigan Compiled Laws)

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R 285.813.1 Definition of drugs.

Rule 1. As used in these rules, "drug" means:

(a) Any article recognized or for which the standards or specifications are prescribed in the official compendium consisting of the United States pharmacopoeia, homeopathic pharmacopoeia, of the United States or national formulary and supplements in effect on the effective date of these rules.

(b) Any article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.

(c) Any article, other than food, intended to affect the structure or any function of the body of man or other animals.

(d) Any article intended for use as a component of any article specified in subdivisions (a), (b) or (c); but does not include devices or their components, parts or accessories.

History: 1954 ACS 56, p. 7, Eff. Nov. 14, 1968.

R 285.813.2 Drugs; illegal use.

Rule 2. It is illegal to administer internally or externally a drug of a nature that could affect or alter the normal performance of a horse in a harness race or an animal entered in a pulling contest where state funds are used for any portion of the premiums offered.

History: 1954 ACS 56, p. 8, Eff. Nov. 14, 1968.

R 285.813.3 Collection of samples.

Rule 3. Saliva and urine samples may be obtained by the director of agriculture from any horse entered in a race or animal entered in a pulling contest. The director of agriculture or his representative may request the fair association to furnish necessary help to obtain saliva and urine samples. The department will pay the help at pre-established rates. Failure to provide sufficient help when requested shall result in forfeiture of all rights to state aid to the fair for these contests. The owner, trainer, groom, or other responsible representative of the owner shall be present when a saliva or urine specimen is taken from the animal, and shall remain until the sample is sealed in his presence. The official sample tag attached to the specimen shall be signed by the owner, trainer, groom, or other representative as witness of the taking of the specimen. Refusal or failure to sign the sample tag will in no way affect the validity of the specimen. Willful failure to be present at or refusal to allow the taking of a specimen, or any act or threat to impede or prevent or otherwise interfere therewith, shall be a violation of this rule. The saliva and urine samples shall be analyzed in the laboratories of the Michigan department of agriculture.

History: 1954 ACS 56, p. 8, Eff. Nov. 14, 1968.

R 285.813.4 Devices.

Rule 4. No electrical, mechanical, or other device shall be used for the purpose of stimulating or depressing an animal or affecting his speed or ability in a race or contest, nor shall anyone have such a device in his possession, where state funds are used for any portion of the premium offered. However, an ordinary whip with spur may be used in a harness horse race.

History: 1954 ACS 56, p. 8, Eff. Nov. 14, 1968.

R 285.813.5 Hearings.

Rule 5. The presence of a drug in the chemical analysis of saliva or urine samples shall be prima facie evidence that the drug has been administered to the

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animal. The director of agriculture shall notify the fair association and the animal's owner of the findings and shall hold a hearing thereon, or on any violation of these rules, within 14 days from the date the test results are received by the director. The owner or his representative may appear and be heard. The owner of the animal and his representative and all animals, owned or leased to them, are ineligible to participate in or receive premiums offered at any county, district, or community fair where state funds are used for any portion of the premiums offered, pending an investigation and decision. From testimony taken the director of agriculture shall render a decision on the eligibility of the owner, his representative, and the animal, or any of them, to participate in state funds paid at any future state, county, district, or community fair harness horse race or pulling contest.

History: 1954 ACS 56, p. 8, Eff. Nov. 14, 1968.

REGULATION NO. 814. MICHIGAN FUTURITY RACES

(By authority conferred on the director of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, being §431.43 of the Michigan Compiled Laws)

R 285.814.1 Definitions.

Rule 1. As used in these rules:

(a) "Commission" means the commission of agriculture.

(b) "Director" means the director of agriculture.

(c) "Fair" means a county, district or community fair which conducts harness horse racing for standardbred horses.

(d) "Futurity race" means a stake race in which the dams of the competing horses were nominated either when in foal or during the year of foaling.

(e) "Michigan futurity race" means a futurity race of 2- and 3-year-old Michigan bred standardbred horses.

History: 1954 ACS 63, p. 13, Eff. Aug. 14, 1970.

R 285.814.2 Kinds of futurity races.

Rule 2. (1) A Michigan futurity race will be comprised of 4 individual races as follows:

(a) One 2-year-old pace.

(b) One 2-year-old trot.

(c) One 3-year-old pace.

(d) One 3-year-old trot.

(2) Monies provided by the director for the special purses for these races will be divided equally among the 4 races.

History: 1954 ACS 63, p. 14, Eff. Aug. 14, 1970.

R 285.814.3 Race sites.

Rule 3. (1) The director will designate the fair to host the Michigan futurity races.

(2) The Michigan futurity races will not be held at the same fair at which the Wolverine futurity is held.

(3) If because of unfavorable weather or other unavoidable reason the Michigan futurity races are postponed, they will be rescheduled at the discretion of the director. The director may reschedule the races at another fair if the fair originally designated to host the futurity is unable to do so.

History: 1954 ACS 63, p. 14, Eff. Aug. 14, 1970.

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R 285.814.4 Purse distributions.

Rule 4. (1) The Michigan futurity races shall be conducted under the 2 heat plan of racing.

(2) Each purse in the Michigan futurity races will be divided into 2 equal parts and divided among the winners of each heat in the following manner:

Five or more starters.....	45%	25%	15%	10%	5%
Four starters.....	50%	25%	15%	10%	
Three starters.....	50%	30%	20%		
Two starters.....	65%	35%			
One starter.....	100%				

(3) If there are 2 heat winners, the trophy will go to the winner standing best in the summary. If both winners are tied in the summary, the trophy will go to the winner of the fastest heat. In the event of a tie in both summary and time, the trophy will go to the winner of the second heat.

History: 1954 ACS 63, p. 14, Eff. Aug. 14, 1970.

R 285.814.5 Elimination heats.

Rule 5. (1) If more than 10 horses are declared to start on a 10-horse track or more than 12 horses are declared to start on a 12-horse track, the elimination heat system as hereinafter described will be used.

(2) The field of horses shall be divided by lot and a first elimination heat will race for 30% of the purse. The second elimination heat will race for 30% of the purse, and the horses who qualify for the main heat will race for 40% of the purse. The winner of the main heat shall be the race winner.

(3) If more horses are declared in to start than can be accommodated by 2 elimination heats, enough elimination heats will be added to take care of the additional horses. The percent of purse raced for in each elimination heat will be determined by dividing the number of elimination heats into 60. The main heat will be for 40% of the purse. If there are 3 or more qualifying heats, not more than 3 horses will qualify from each qualifying heat for the main heat.

History: 1954 ACS 63, p. 14, Eff. Aug. 14, 1970.

R 285.814.6 Final reports.

Rule 6. Within 60 days after completion of Michigan futurity races, a statement of the disposition of these special state funds shall be subscribed and sworn to by the authorized fair official and submitted to the director.

History: 1954 ACS 63, p. 14, Eff. Aug. 14, 1970.

R 285.814.7 Stallion registration.

Rule 7. A standardbred horse to be eligible for Michigan futurity races shall be sired by a standardbred sire that was owned exclusively by residents of this state and which was standing in this state the entire calendar year in which the service occurred. This stallion shall be registered, on forms provided by the director, with the director by January 1 in each year in which the stallion will be standing at service in this state if its foals are to be eligible for Michigan futurity races.

History: 1954 ACS 63, p. 14, Eff. Aug. 14, 1970.

R 285.814.9 Rescission.

Rule 9. Regulation No. 803 governing "Special Purses on Michigan Sired Colts," being R 285.803 of the Michigan Administrative Code and appearing on pages 370 to 373 of the 1957 Annual Supplement to the Code, is rescinded.

History: 1954 ACS 63, p. 15, Eff. Aug. 14, 1970.

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REGULATION NO. 815.
STATE AID FOR REGISTERED LIGHT HORSE RACES AT FAIRS

(By authority conferred on the director of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, being §431.43 of the Michigan Compiled Laws)

R 285.815.1 Definitions.

Rule 1. As used in these rules:

(a) "Department" means the Michigan department of agriculture.

(b) "Director" means the director of the department of agriculture.

(c) "Fair" means a state or county fair incorporated under the appropriate law.

(d) "Jockey" means the race rider.

(e) "Race" means a race started in a field of horses from a starting gate.

(f) "Registered light horse" means a recognized light horse or pony breed as follows:

(i) Appaloosa
(ii) Arabian
(iii) Half-Arabian
(iv) Morgan
(v) Paint
(vi) Palomino
(vii) Pinto
(viii) Quarter
(ix) Thoroughbred
(x) Ponies of the Americas
(xi) Shetland
(xii) Hackney

(g) "State allocation" means money allocated by the director from state funds for a race conducted by a fair.

History: 1954 ACS 78, p. 22, Eff. Jan. 8, 1974.

R 285.815.2 Applications for state aid.

Rule 2. (1) Commencing in 1974, a fair desiring state aid for light horse races shall file its annual registered light horse racing program with the department by February 1 of each year, for approval by the director. In 1973 only, the annual registered light horse racing program shall be filed with the department within 30 days after the date these rules are filed with the secretary of state.

(2) Any change relating to the conditions of a race shall be approved by the department not less than 10 days before the start of the race.

History: 1954 ACS 78, p. 22, Eff. Jan. 8, 1974; 1954 ACS 84, p. 29, Eff. Aug. 16, 1975.

R 285.815.3 Presiding judges.

Rule 3. (1) The department shall hire and approve presiding judges for registered light horse races conducted at Michigan fairs. Only judges approved by the director shall preside at registered light horse races at fairs.

(2) A registered light horse association shall provide the director with a list of qualified judges for their breed prior to March 1 of each racing year.

(3) The director shall assign the presiding judges to the fairs which conduct registered light horse racing.

(4) The presiding judge shall approve associate judges and timers at each fair race meet and rule on the validity of horses scratched at the fair to which he is assigned.

(5) The presiding judge shall see that all department rules and breed association rules pertaining to registered light horse racing are properly carried out at the race meet where he is assigned.

History: 1954 ACS 78, p. 22, Eff. Jan. 8, 1974; 1954 ACS 84, p. 29, Eff. Aug. 16, 1975.

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R 285.815.4 Track maintenance, equipment, and head numbers.

Rule 4. (1) A racetrack over which registered light horse races are conducted shall be maintained so as to make registered light horse racing safe. The track shall be adequately drained and kept in a smooth condition during the races and shall be sprinkled between races when necessary. The track condition shall be approved by a representative of the director before any races are conducted over it if purses are paid in part by funds allocated under these rules.

(2) A multiple stall starting gate (8 or 10 stall) and starter approved by the director shall be used in a registered light horse race.

(3) A fair shall use a photographer and photo finish equipment approved by the director for a registered light horse race.

(4) A registered light horse race entry shall be provided with a head number or saddle pad or both.

History: 1954 ACS 78, p. 22, Eff. Jan. 8, 1974.

R 285.815.5 Allocations of state aid.

Rule 5. (1) Allocations to a fair for purses for registered light horse races will be made by the director before the races as prescribed by law and will be 50% of the purse offered, but not more than $250.00 for each race.

(2) A registered light horse race whose purse is paid in part or full by state funds may not bar a registered light horse sired by a Michigan stallion if the Michigan sired registered light horse conforms to all the conditions of the race.

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974.

R 285.815.6 Purse distribution.

Rule 6. A purse for a registered light horse race at a fair, which is paid in part or full by state funds, shall be divided as follows:

	1st Place	2nd Place	3rd Place	4th Place
Four or more starters	50%	25%	15%	10%
Three starters	55%	30%	15%	
Two starters	65%	35%		
One starter	100%			

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974; 1954 ACS 84, p. 29, Eff. Aug. 16, 1975.

R 285.815.7 Split races.

Rule 7. A fair conducting a split race shall not receive an additional state allocation to that race.

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974.

R 285.815.8 Entries.

Rule 8. (1) A fair shall provide at least 4 feet per horse at the narrowest point of the track in a race.

(2) An entry box will be closed when the starting gate is filled or 2 days before post time, whichever comes first. If 4 horses are not entered at the closing time, the box may be reopened 4 hours later for the same conditions for a period of 1 hour. Then, if the scheduled race fails to fill, a substitute race may be scheduled.

(3) At least 4 registered light horses are required to start a race, but less than 4 horses may start if 1 or more horses are scratched because of physical reasons substantiated by a veterinary certificate which certificate is submitted with the final report to the department.

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974; 1954 ACS 84, p. 30, Eff. Aug. 16, 1975.

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R 285.815.9 Racing rules for specific breeds.

Rule 9. A registered light horse breed association shall file with the director the current rules of racing for its programs for registered horses, and shall conduct any registered light horse races receiving any state funds under these rules, except where state law or rule provides otherwise.

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974; 1954 ACS 84, p. 30, Eff. Aug. 16, 1975.

R 285.815.10 Jockeys' use of alcoholic beverages.

Rule 10. A jockey shall not ride in a registered light horse race at a fair, whose purse is paid in part or full by state funds, while under the influence of alcohol. A jockey shall submit to a breath analyzer test when directed by a representative of the director, and if the results show a reading of more than 0.05% of alcohol in the blood, the person shall not be permitted to ride and shall be in violation of these rules.

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974.

R 285.815.11 Illegal use of drugs.

Rule 11. It is illegal to administer internally or externally a drug of a nature that could affect or alter the normal performance of a horse in a registered light horse race where state funds are used for any portion of the purses offered.

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974.

R 285.815.12 Definition of drugs.

Rule 12. As used in these rules, "drug" means:

(a) Any article recognized or for which the standards or specifications are prescribed in the official compendium consisting of the United States pharmacopeia, homeopathic pharmacopoeia of the United States or national formulary and supplements in effect on the effective date of these rules.

(b) Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(c) Any article, other than food, intended to affect the structure of any function of the body of man or other animals.

(d) Any article intended for use as a component of any article specified in subdivisions (a), (b) or (c), but does not include devices or their components, parts, or accessories.

History: 1954 ACS 78, p. 23, Eff. Jan. 8, 1974.

R 285.815.13 Collection of samples.

Rule 13. Saliva and urine samples may be obtained by the director from any horse entered in a registered light horse race. The director or his representative may request the fair association to furnish necessary help to obtain saliva and urine samples. The department will pay the help at pre-established rates. Failure to provide sufficient help when requested shall result in forfeiture of all rights to state aid to the fair for these contests. The owner, trainer, groom, or other responsible representative of the owner shall be present when a saliva or urine specimen is taken from the animal, and shall remain until the sample is sealed in his presence. The official sample tag attached to the specimen shall be signed by the owner, trainer, groom, or other representative, as witness of the taking of the specimen. Refusal or failure to sign the sample tag will in no way affect the validity of the specimen. Willful failure to be present at or refusal to allow the taking of a specimen, or any act or threat to impede or prevent or otherwise interfere therewith, is a violation of these rules. The saliva and urine samples shall

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be analyzed in the laboratories of the department. The presence of a drug in the chemical analysis of saliva or urine samples shall be prima facie evidence that the drug has been administered to the animal.

History: 1954 ACS 78, p. 24, Eff. Jan. 8, 1974.

R 285.815.14 Devices.

Rule 14. An electrical, mechnical, or other device shall not be used for the purpose of stimulating or depressing an animal or affecting his speed or ability in a race. A person shall not have such a device in his possession where state funds are used for any portion of the purses offered. However, an ordinary whip may be used in a registered light horse race.

History: 1954 ACS 78, p. 24, Eff. Jan. 8, 1974.

R 285.815.15 Hearings.

Rule 15. If a provision of these rules or any other rules or state law applicable to a registered light horse race program or a registered light horse breed association rules for racing applicable to this program is violated, the director shall notify the horse's owner of the violation and shall hold a hearing thereon within 14 days after the date the violation is reported to the director. The owner or his representative may appear and be heard. From testimony taken, the director shall render a decision on the eligibility of the owner, his representative, and the animal, or any of them, pertaining to the race in which the provision was violated, to participate in state funds paid at any future state, county, district, or community fair registered light horse race.

History: 1954 ACS 78, p. 24, Eff. Jan. 8, 1974; 1954 ACS 84, p. 30, Eff. Aug. 16, 1975.

R 285.815.16 Final reports and preservation of records.

Rule 16. (1) Within 15 days after completion of a registered light horse race program, or June 30, whichever is sooner, an association shall submit to the director originals of judges' sheets signed by the presiding judge and a sworn statement on forms provided by the director and a copy of the printed race program indicating the order of finish of the horses.

(2) The association shall supply the director any additional information required in the auditing of the report.

(3) Association records pertaining to the payment of purses shall be kept for use by the state auditors not less than 3 years.

History: 1954 ACS 78, p. 24, Eff. Jan. 8, 1974.

REGULATION NO. 816.
STABLING AND TRAINING FACILITIES FOR STANDARDBRED HARNESS HORSES

(By authority conferred on the department of agriculture by section 13 of Act No. 27 of the Public Acts of 1959 and sections 9 and 184 of Act No. 380 of the Public Acts of 1965, being §§431.36, 16.109, and 16.284 of the Michigan Compiled Laws)

R 285.816.1 Definitions.

Rule 1. As used in these rules:

(a) "Association" means a corporation organized under a law of this state and governed by an elected board of directors, or an association or board functioning under Act No. 11 of the Public Acts of 1929, being §46.151 et seq. of the Michigan Compiled Laws, and which conducts a fair.

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(b) "Buildings" means the buildings which are primarily used for the stabling of horses or other livestock and which are owned by a fair association or political subdivision of this state.

(c) "Commission" means the commission of agriculture.

(d) "Department" means the department of agriculture.

(e) "Director" means the director of agriculture.

(f) "Fair" means a competitive and educational exhibition of agricultural commodities and manufactured products for which premiums are paid, and which is conducted by an association or state agency.

(g) "Grounds" means the land which is primarily used for fair purposes and which is owned by a fair association or a political subdivision of this state.

(h) "Racetrack" means a track used primarily for standardbred harness horse races, and includes the fence around the track and the hubrail.

History: 1954 ACS 88, p. 51, Eff. Aug. 24, 1976.

R 285.816.2 Allotments; qualifications.

Rule 2. (1) An association receiving an allotment shall not require persons using the fair facilities to be members of an association or organization.

(2) A fair shall have been conducted by the association for a period of not less than 3 years before the time of application and approved by the commission for financial assistance.

(3) An allotment may be made only to an association which does not receive state funds for standardbred harness horse racing and stabling directly from any other state source.

History: 1954 ACS 88, p. 51, Eff. Aug. 24, 1976.

R 285.816.3 Allotments; application and approval.

Rule 3. (1) The president and secretary of an association requesting funds shall file a proper application in duplicate, on forms provided by the department, with the director for consideration on or before May 1 preceding the state's fiscal year for which an allotment is being requested, or 60 days prior to making the association's facilities available for training and stabling.

(2) The department shall give written notice of approval or disapproval of an application within 30 days after receiving the application.

History: 1954 ACS 88, p. 52, Eff. Aug. 24, 1976.

R 285.816.4 Stabling facilities.

Rule 4. (1) Michigan residents shall be given preference over persons from outside Michigan for stabling facilities.

(2) Stalls shall not be less than 80 square feet per horse.

(3) Water shall be provided to each building used in this program.

(4) Electrical systems in buildings shall conform to the state electrical code.

(5) Conveniently located restrooms and washroom facilities shall be provided on the grounds for persons renting stabling facilities, and shall conform to applicable local codes.

(6) All manure shall be removed from the grounds complying to the local health codes.

History: 1954 ACS 88, p. 52, Eff. Aug. 24, 1976.

R 285.816.5 Training facilities.

Rule 5. (1) A racetrack on which standardbred harness horses train shall be maintained in a manner suitable for training horses, or an auxiliary track be made available.

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(2) The racing track shall be available for harness horse training for a period of not less than 6 hours per day, except during the dates of the fair, unless written consent is given by the director.

(3) An association shall have a racetrack marked with a painted post as to starting point, quarter miles, and finish.

History: 1954 ACS 88, p. 52, Eff. Aug. 24, 1976.

R 285.816.6 Final approval.

Rule 6. After an application has been submitted, the department shall conduct an inspection of the total facility in order to determine that the facility meets the standards described in R 285.816.4 and R 285.816.5.

History: 1954 ACS 88, p. 52, Eff. Aug. 24, 1976.

R 285.816.7 Allotments; uses.

Rule 7. (1) An association which has an application approved and has conformed with these rules shall be reimbursed $25.00 per month for each horse for the first 5 horses, and $10.00 per month for all over 5 horses.

(2) (a) The association shall submit to the department a sworn statement of the number of stalls rented and the period of time for which they were rented.

(b) The fair association shall provide any additional information requested by the director necessary in processing the association's claim.

(3) A fair shall keep its facilities available and racetracks in training condition throughout the year, with the following exceptions:

(a) Except for 2 weeks before and after the association's scheduled fair dates.

(b) Except those associations north of and along a line from Standish to Ludington, which shall keep their racetracks in a suitable training condition from May 1 to December 15.

(4) A rent rate charged to a person for stabling or training at an approved racetrack, or both, shall be approved by the director.

(5) A person stabling or training at an approved racetrack, or both, shall pay the rental charges for those services at the time and place specified by the association, or shall be subject to immediate eviction from the grounds.

(6) A person stabling or training at an approved racetrack, or both, shall not be eligible to participate in a harness horse race where state funds are used to pay any portion of the race if that person fails to pay a stabling or training rental charge, or both, as specified by the association whose facility he uses.

(7) The association shall keep records pertaining to the rental of their facilities available for state auditors for not less than 3 years.

History: 1954 ACS 88, p. 52, Eff. Aug. 24, 1976.

REGULATION NO. 817.
QUARTER HORSE BREEDERS' AWARDS AND STATE SUPPLEMENTS

(By authority conferred on the director of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, being §431.43 of the Michigan Compiled Laws)

R 285.817.1 Definitions.

Rule 1. As used in these rules:

(a) "Breeder" means a person or entity owning a mare at the time of breeding.

(b) "Conditions" means a specification of the terms under which a race is conducted, such as the distance, weight, purse, stakes, trials, finals, and money won.

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(c) "Department" means the Michigan department of agriculture.

(d) "Director" means the director of the Michigan department of agriculture.

(e) "Foaling year" means the year in which the foal is born.

(f) "Gross purse" means the track purse plus the state supplement.

(g) "Licensed quarter horse racing association" means associations licensed by the Michigan racing commissioner to conduct quarter horse races in Michigan.

(h) "Michigan-bred horse" means a horse from a Michigan-owned mare at the time of breeding and sired by a registered stallion owned exclusively by a resident or residents of this state and which served no mares at any location outside of this state during the calendar year in which the service occurred. Mares shall be registered with the director of agriculture.

(i) "Owner" means the person listed on the American quarter horse association registry as the most current owner of the horse.

(j) "Quarter horse racing association of Michigan" means a nonprofit corporation consisting of those persons organized for the purpose of improving quarter horse racing and breeding.

(k) "State supplement" means money allocated by the director from the state fund for a race conducted exclusively for Michigan-bred horses.

(l) "Track purse" means the money offered by a quarter horse racing association for 1 race, not including a state supplement.

History: 1954 ACS 91, p. 28, Eff. May 11, 1977.

R 285.817.2 Eligibility of horses for breeders' awards and state supplements.

Rule 2. (1) Eligibility of horses for breeders' awards and state supplements is established upon compliance with the following:

(a) Commencing in 1978, a mare shall be registered with the director, by December 1 of the year the mare was bred, on forms provided by the director.

(b) Commencing in 1978, a stallion shall be registered with the director, by December 1 of the breeding year, on forms provided by the director.

(c) A certificate of eligibility shall be issued by the director for a Michigan-bred horse. This certificate shall accompany the American quarter horse association registration certificate at the time of entry in a race.

(2) The American quarter horse association shall be considered the official record in determining the eligibility of a Michigan-bred horse foaled before 1979.

History: 1954 ACS 91, p. 28, Eff. May 11, 1977; 1954 ACS 98, p. 73, Eff. Aug. 15, 1978.

R 285.817.3 Eligibility of races for state supplements.

Rule 3. (1) State supplements shall be allocated for the following races:

(a) Michigan-bred quarter horse over-night races.

(b) The Michigan futurities.

(c) Michigan-bred 2-year-old championships, handicaps, and stakes.

(d) Michigan-bred 3-year-old handicaps and stakes.

(e) Michigan-bred 4-year-old and older handicaps and stakes.

(2) State supplements shall be paid first for races specified under subdivisions (b) to (e) of subrule (1). If funds are not available to provide state supplements for all races approved by the director under subdivision (a) of subrule (1), then the director shall prorate available money at his discretion among the races so run.

(3) Not less than 3 races of Michigan-bred horses shall be scheduled on each full quarter horse program, with not less than 1 race of Michigan-bred horses on any split program.

(4) An association licensed to conduct quarter horse racing in Michigan shall not offer a smaller track purse, excluding the state supplement, for a race of

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Michigan-bred horses, than it offers for a race of non-Michigan-bred horses which, in the judgment of the director, is a comparable race.

(5) If the programmed race of Michigan-bred horses does not draw sufficient entries to run, the licensed quarter horse racing association may substitute a race approved by the director.

History: 1954 ACS 91, p. 26, Eff. May 11, 1977.

R 285.817.4 Conditions and purses for races; allocation of state supplements.

Rule 4. (1) The racing association of the track where races of Michigan-bred horses are to be conducted shall propose conditions and purses for the races of Michigan-bred horses. The conditions of all races of Michigan-bred horses are subject to the approval of the director. These conditions shall be submitted to the director not less than 18 calendar days before the first race is conducted for each race program.

(2) The allocation of state supplements shall be determined by the director with the advice of the racing commissioner, a representative of the licensed quarter horse racing associations, and a representative of the quarter horse racing association of Michigan.

(3) The director shall announce, no later than 4 calendar days before the start of the race meet, his allocation of state supplements to purses for each of the approved races of Michigan-bred horses in the race program. If proposed conditions for those races are not submitted to the director, along with a substitute race list, within the time fixed by subrule (1), the director may determine conditions and allocate state supplements for those races at his discretion, but state supplements may not be allocated later than 96 hours before the first race scheduled in each condition book. A state supplement shall not be allocated to a race of Michigan-bred horses after the race has been run.

History: 1954 ACS 91, p. 27, Eff. May 11, 1977.

R 285.817.5 Payment of breeder's award.

Rule 5. (1) The director shall pay a breeder's award to the breeder of a Michigan-bred horse for each time the horse runs first, second, or third in a race, including approved fair races. The total award shall be in the amount of 10% of gross purse. If more than 1 winner, place, or show is declared, each breeder is entitled to a breeder's award.

(2) If 3 breeders are eligible for a breeder's award, the breeder whose horse came in first shall receive 5% of the gross purse, the breeder whose horse came in second shall receive 3%, and the breeder whose horse came in third shall receive 2%. If breeders of only 2 of the first 3 horses are eligible, the division shall be 6% and 4%. If only 1 breeder is eligible, he shall receive 10%.

(3) Rights to breeders' awards are not assignable, and there shall be no obligation upon the director to pay a breeder's award other than as provided herein, or in excess of available funds. A breeder's award shall not be paid for a race won after the date of the death of the breeder, who would otherwise be entitled to the award.

History: 1954 ACS 91, p. 27, Eff. May 11, 1977.

R 285.817.6 Certification of racing results; burden of proof; processing of payment.

Rule 6. (1) In each condition book, the racing commissioner shall certify to the director at the completion of racing the results of all races in which a Michigan-

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bred horse placed first, second, or third, along with the names of the owner and breeder of the horse.

(2) The secretary of a fair shall provide the director with a copy of each day's race program for the fair's races within 15 days, showing the first 4 places or a complete film strip of each race, with placings checked on the program and certified by the race secretary.

(3) When the eligibility of a breeder to receive a breeder's award is questioned, the burden of proving that a horse is a Michigan-bred horse, or is in compliance with these rules, is on the breeder.

(4) State supplements may be processed for payment to the owners of winning horses once each month.

(5) Payment of breeders' awards shall be processed not less than once each month.

History: 1954 ACS 91, p. 27, Eff. May 11, 1977.

R 285.817.7 Ineligibility for future breeders' awards and state supplements.

Rule 7. A person or entity willfully accepting and retaining a breeder's award or state supplement contrary to these rules is ineligible for a future breeder's award or state supplement in this state.

History: 1954 ACS 91, p. 28, Eff. May 11, 1977.

REGULATION NO. 818. MICHIGAN SIRE STAKE RACES

(By authority conferred on the director of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, being §431.43 of the Michigan Compiled Laws)

R 285.818.1 Definitions.

Rule 1. As used in these rules:

(a) "Breeder" means a person or entity owning a mare at the time of breeding.

(b) "Commission" means the commission of agriculture.

(c) "Department" means the department of agriculture.

(d) "Director" means the director of agriculture.

(e) "Licensed racing association" means an association licensed by the Michigan racing commission to conduct standardbred horse races in Michigan.

(f) "M.H.H.A." means the Michigan harness horsemen's association.

(g) "Michigan-sired horse" means a horse from a Michigan owned or leased registered standardbred stallion owned or leased exclusively by a resident or residents of this state and which served no mares at any location outside of this state during the calendar year in which the service occurred. These stallions shall be registered, on forms provided by the director, with the department by January 1 each year in which the stallions will be standing at service in this state. A newly acquired stallion, which has not been in Michigan for breeding purposes prior to January 1 of a given year, and has not served any mares after December 31 of the preceding year, shall be registered with the department before servicing any mares, if its foals are to be eligible for Michigan sire stake races.

(h) "Sire stake" means a race conducted for 2- and 3-year-old Michigan sired standardbred horses.

History: 1954 ACS 98, p. 73, Eff. July 13, 1978.

R 285.818.2 Foals eligible for nomination; racing divisions.

Rule 2. (1) The Michigan sire stake races shall be comprised of 8 individual races. The first foals eligible to be nominated for these races shall be the foals born in the official 1979 U.S.T.A. foaling season.

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(2) In 1981, they shall be raced as 2-year-olds in 4 separate divisions, as follows:
(a) 2-year-old pacing colts and geldings.
(b) 2-year-old pacing fillies.
(c) 2-year-old trotting colts and geldings.
(d) 2-year-old trotting fillies.
(3) In all years following 1981, they shall be raced in 8 separate divisions, as follows:
(a) 2-year-old pacing colts and geldings.
(b) 2-year-old pacing fillies.
(c) 2-year-old trotting colts and geldings.
(d) 2-year-old trotting fillies.
(e) 3-year-old pacing colts and geldings.
(f) 3-year-old pacing fillies.
(g) 3-year-old trotting colts and geldings.
(h) 3-year-old trotting fillies.

History: 1954 ACS 98, p. 73, Eff. July 13, 1978.

R 285.818.3 Fees and nominations.

Rule 3. (1) The M.H.H.A. shall be the holding agent for all fees collected, and shall be responsible for the disbursement of purse monies pertaining to the sire stakes program.

(2) The M.H.H.A. may retain up to 5% of the money collected from nominations and March fifteenth 2-year-old payments to pay for the clerical work necessary in the administration of these races. The balance of these 2 payments shall be added to the money made available under the provisions of Act No. 27 of the Public Acts of 1959, as amended, being §431.31 et seq. of the Michigan Compiled Laws.

(3) The payment schedule shall be as follows:
(a) Year of foaling—July 15 nomination.....$10.00
(b) 2-year-old—March 15.....$50.00
Must be made to keep all future eligibility.
(c) 2-year-old—starting fee $500.00 due 10 days before the racing of the finals. (Gait must be specified on the March 15 payment)
(d) 3-year-old—March 15.....$50.00
(e) 3-year-old—starting fee $500.00 due 10 days before the racing of the finals. (Gait must be specified on the March 15 payment.)

(4) In 1981, 50% of the money made available by statute shall be divided equally among the 4 divisions to be raced in 1981. The remaining 50% shall be carried over and added in 4 equal amounts to the total amounts available for the years 1982, 1983, 1984, and 1985. In all years after 1981, all monies available shall be divided equally among the 8 divisions to be raced.

(5) All March 15 payments and starting fees shall be added to their respective divisions.

(6) Any foal changing gaits after the March 15 payment may transfer to the division of its new gait and the March 15 payments shall follow such transfer.

History: 1954 ACS 98, p. 74, Eff. July 13, 1978.

R 285.818.4 Designation of host tracks; race dates; postponement and rescheduling of races.

Rule 4. (1) The director shall designate annually which pari-mutuel track or tracks shall host the Michigan sire stake races. To assist the director in designating

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the track and to help determine the time and conditions of the races to be run, an advisory panel is established consisting of the following 5 persons:

(a) The president, or his designee, of the Michigan harness horsemen's association.

(b) The president, or his designee, of the Michigan harness horse breeders' association.

(c) The Michigan racing commissioner, or his designee.

(d) A representative of the pari-mutuel harness race meet licensees.

(e) A member of the Michigan department of agriculture, designated by the director, who shall act as chairman.

(2) The director shall make announcements of the track or tracks receiving the races not later than November 1 preceding the year in which the races are to be conducted.

(3) If because of unfavorable weather or other unavoidable circumstances the Michigan sire stake races are postponed, the director may reschedule the races at another licensed standardbred harness track, if the licensed track originally designated to host the sire stakes is unable to do so.

History: 1954 ACS 98, p. 74, Eff. July 13, 1978.

R 285.818.5 Elimination plan; applicable rules.

Rule 5. (1) All races shall be conducted pursuant to the following elimination plan:

(a) Seventy-five percent of the total money available for each division shall constitute the purse for the final event in each division, which shall be raced in 1 heat.

(b) Twenty-five percent of the total money available for each division shall be divided equally by the number of elimination heats required, and which shall be raced 7 days before the date of their respective finals, as follows:

(i) If 11 to 18 declare to start—2 divisions with 5 each qualifying.

(ii) If 19 to 27 declare to start—3 divisions with 3 each qualifying.

(iii) If 28 to 36 declare to start—4 divisions with 2 each qualifying.

(iv) If 37 to 45 declare to start—5 divisions with 2 each qualifying.

(v) If more than 45 declare to start, heats shall be conducted so that a field does not contain more than 9 starters and only the winners shall be qualified for the final.

(2) If less than 11 declare to start, they shall race the final, without elimination heats, for the total money available for that division.

(3) Elimination races may be raced as betting races or as pre-programmed races at the discretion of the host track.

(4) Racing of these futurities, where not specifically covered by these rules, shall be raced pursuant to the rules of the Michigan racing commissioner.

History: 1954 ACS 98, p. 75, Eff. July 13, 1978.

R 285.818.6 Purse distribution.

Rule 6. Each purse in the Michigan sire stake races shall be divided among the winners of each race in the following manner:

5 or more starters	50%, 25%, 12%, 8%, 5%
4 starters	50%, 25%, 15%, 10%
3 starters	50%, 30%, 20%
2 starters	65%, 35%
1 starter	100%

History: 1954 ACS 98, p. 75, Eff. July 13, 1978.

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R 285.818.7 Ineligibility of person or entity to participate in future sire stakes program.

Rule 7. A person or entity willfully falsifying any documents required by these rules or willfully accepting and retaining any purse monies contrary to these rules, shall be ineligible to participate in any future sire stakes program under the provisions of these rules.

History: 1954 ACS 98, p. 75, Eff. July 13, 1978.

REGULATION NO. 819.
APPALOOSA HORSE BREEDERS' AWARDS AND STATE SUPPLEMENTS

(By authority conferred on the director of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, being §431.43 of the Michigan Compiled Laws)

R 285.819.1 Definitions.

Rule 1. As used in these rules:

(a) "Breeder" means a person or entity owning a mare at the time of breeding.

(b) "Conditions" means a specification of the terms under which a race is conducted, such as the distance, weight, purse, stakes, trials, finals, and money won.

(c) "Department" means the Michigan department of agriculture.

(d) "Director" means the director of the Michigan department of agriculture.

(e) "Foaling year" means the year in which the foal is born.

(f) "Gross purse" means the track purse plus the state supplement.

(g) "Licensed Appaloosa horse racing association" means associations licensed by the Michigan racing commissioner to conduct Appaloosa horse races in Michigan.

(h) "Michigan-bred horse" means a horse from a Michigan-owned mare at the time of breeding and sired by a registered stallion owned or leased exclusively by a resident or residents of this state and which served no mares at any location outside of this state during the calendar year in which the service occurred. Mares shall be registered with the director of agriculture.

(i) "Owner" means the person listed on the national Appaloosa horse club registry as the most current owner of the horse.

(j) "Michigan Appaloosa racing association, inc." means a nonprofit corporation consisting of those persons organized for the purpose of improving Appaloosa horse racing and breeding.

(k) "State supplement" means money allocated by the director from the state fund for a race conducted exclusively for Michigan-bred Appaloosa horses.

(l) "Track purse" means the money offered by a licensed Appaloosa horse racing association for 1 race, not including a state supplement.

History: 1954 ACS 98, p. 75, Eff. July 8, 1978.

R 285.819.2 Eligibility of horses for breeders' awards and state supplements.

Rule 2. (1) Eligibility of horses for breeders' awards and state supplements is established upon compliance with the following:

(a) Commencing in 1978, a mare shall be registered with the director by September 1, 1978, and July 1 each year thereafter, in the year in which the mare is bred, on forms provided by the director.

(b) Commencing in 1979, a stallion shall be registered with the director, by February 1 of the breeding year, on forms provided by the director.

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(c) A certificate of eligibility shall be issued by the director for a Michigan-bred horse. This certificate shall accompany the national Appaloosa horse club registration certificate at the time of entry in a race.

(2) The national Appaloosa horse club shall be considered the official record in determining the eligibility of a Michigan-bred horse foaled before 1979.

History: 1954 ACS 98, p. 76, Eff. July 8, 1978.

R 285.819.3 Eligibility of races for state supplements.

Rule 3. (1) State supplements shall be allocated for the following races:

(a) Michigan-bred Appaloosa horse overnight races.

(b) The Michigan futurities.

(c) Michigan-bred 2-year-old handicaps and stakes.

(d) Michigan-bred 3-year-old handicaps and stakes.

(e) Michigan-bred 4-year-old and older handicaps and stakes.

(2) State supplements shall be paid first for races specified under subdivisions (b) to (e) of subrule (1). If funds are not available to provide state supplements for all races approved by the director under subdivision (a) of subrule (1), then the director shall prorate available money at his discretion among the races so run.

(3) Not less than 2 races of Michigan-bred horses shall be scheduled on each full Appaloosa horse program, with not less than 1 race scheduled for Michigan-bred horses on any split program.

(4) An association licensed to conduct Appaloosa horse racing in Michigan shall not offer a smaller track purse, excluding the state supplement, for a race of Michigan-bred horses than it offers for a race of non-Michigan-bred horses which, in the judgment of the director, is a comparable race.

(5) If the programmed race of Michigan-bred horses does not draw sufficient entries to run, the licensed Appaloosa horse racing association may substitute a race approved by the director.

History: 1954 ACS 98, p. 76, Eff. July 8, 1978.

R 285.819.4 Conditions and purses for races; allocation of state supplements.

Rule 4. (1) The racing association of the track where races of Michigan-bred horses are to be conducted shall propose conditions and purses for the races of Michigan-bred horses. The conditions of all races of Michigan-bred horses are subject to the approval of the director. These conditions shall be submitted to the director not less than 18 calendar days before the first race is conducted for each race program.

(2) The allocation of state supplements shall be determined by the director with the advice of the racing commissioner, a representative of the licensed Appaloosa horse racing associations, and a representative of the Michigan Appaloosa racing association, inc.

(3) The director shall announce, not later than 4 calendar days before the start of the race program, his allocation of state supplements to purses for each of the approved races of Michigan-bred horses in the race program. If proposed conditions for those races are not submitted to the director, along with a substitute race list, within the time fixed by subrule (1), the director may determine conditions and allocate state supplements for those races at his discretion, but state supplements shall not be allocated later than 96 hours before the first race scheduled in each condition book. A state supplement shall not be allocated to a race of Michigan-bred horses after the race has been run.

History: 1954 ACS 98, p. 76, Eff. July 8, 1978.

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R 285.819.5 Payment of breeder's award.

Rule 5. (1) The director shall pay a breeder's award to the breeder of a Michigan-bred horse for each time the horse wins a race, including approved fair races. The total award shall be in the amount of 10% of gross purse. If more than 1 winner is declared, each breeder is entitled to a full breeder's award.

(2) Rights to breeders' awards are not assignable, and there is no obligation upon the director to pay a breeder's award other than as provided herein, or in excess of available funds. A breeder's award shall not be paid for a race won after the date of death of the breeder, who would otherwise be entitled to the award.

History: 1954 ACS 96, p. 77, Eff. July 8, 1978.

R 285.819.6 Certification of racing results; burden of proof; processing of payment.

Rule 6. (1) At the completion of each condition book or weekly race program, the racing commissioner shall certify to the director the results of all races in which a Michigan-bred horse placed first, second, or third, and the names of the owner and breeder of the horse.

(2) The secretary of a fair shall provide the director with a copy of each day's race program for the fair's races within 15 days, showing the first 4 places or a complete film strip of each race, with placings checked on the program and certified by the race secretary.

(3) When the eligibility of a breeder to receive a breeder's award is questioned, the burden of proving that a horse is a Michigan-bred horse, or is in compliance with these rules, is on the breeder.

(4) State supplements may be processed for payment to the owners of winning horses once each month.

(5) Payment of breeders' awards shall be processed not less than once each month.

History: 1954 ACS 96, p. 77, Eff. July 8, 1978.

R 285.819.7 Ineligibility for future breeders' awards and state supplements.

Rule 7. A person or entity willfully accepting and retaining a breeder's award of state supplement contrary to these rules is ineligible for a future breeder's award or state supplement in this state.

History: 1954 ACS 96, p. 77, Eff. July 8, 1978.

REGULATION NO. 820. MICHIGAN-BRED PARI-MUTUEL RACES

(By authority conferred on the director of agriculture by section 13 of Act No. 27 of the Public Acts of 1959, as amended, being §431.43 of the Michigan Compiled Laws)

R 285.820.1 Definitions.

Rule 1. As used in these rules:

(a) "Commissioner" means the Michigan state racing commissioner.

(b) "Department" means the Michigan department of agriculture.

(c) "Director" means the director of the Michigan department of agriculture.

(d) "Licensed racing association" means an association licensed by the Michigan racing commissioner to conduct standardbred horse races in Michigan.

(e) "M.H.H.A." means the Michigan harness horsemen's association.

(f) "Michigan-bred horse" means a horse from a Michigan-owned or leased registered standardbred stallion owned or leased exclusively by a resident or

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residents of this state and which served no mares at any location outside of this state during the calendar year in which service occurred; or means a horse from a Michigan-owned registered standardbred mare owned exclusively by a resident or residents of this state at the time at which the service occurred.

History: 1954 ACS 99, p. 38, Eff. Apr. 21, 1979.

R 285.820.2 Michigan-bred foals eligible for nomination to Michigan-bred races; racing divisions.

Rule 2. (1) The first Michigan-bred foals eligible to be nominated for these Michigan-bred pari-mutuel races shall be Michigan-bred foals born in the official 1975 United States trotting association foaling year.

(2) In 1979 and thereafter, they shall be raced as Michigan-bred 4-year-olds as follows:

(a) Michigan-bred 4-year-old trot.

(b) Michigan-bred 4-year-old pace.

History: 1954 ACS 99, p. 38, Eff. Apr. 21, 1979.

R 285.820.3 Fees and nominations.

Rule 3. (1) The M.H.H.A. shall be the holding agent for all fees collected.

(2) The host licensed racing association is responsible for the disbursement of purse money pertaining to the Michigan-bred pari-mutuel races.

(3) The nomination schedule shall be as follows:

Foals of 1975 - March 15, 1979 payment
Foals of 1976 - March 15, 1979 payment
Foals of 1977 - March 15, 1979 payment
Foals of 1978 - March 15, 1979 payment

(a) All Michigan-bred foals foaled after 1978 shall be nominated on July 15 of the foaling year.

(b) A starting fee of 1% of the state's contribution is due when the Michigan-bred horses declare in to start under the rules existing at the track when the Michigan-bred pari-mutuel race is to be contested.

(c) All nominations shall be divided equally among the Michigan-bred pari-mutuel race divisions.

(d) Sustaining and starting fees shall follow their respective racing division.

History: 1954 ACS 99, p. 38, Eff. Apr. 21, 1979.

R 285.820.4 Application and designation of host tracks.

Rule 4. (1) A licensed racing association requesting state funds for payment of Michigan-bred pari-mutuel race purses shall submit a properly completed application to the racing commissioner.

(2) The racing commissioner shall designate annually at which pari-mutuel track the pace and trot shall be held.

(3) If because of unfavorable weather or other unavoidable circumstances the Michigan-bred pari-mutuel races are postponed, they may be rescheduled at the discretion of the director of agriculture and the racing commissioner.

History: 1954 ACS 99, p. 38, Eff. Apr. 21, 1979.

R 285.820.5 Elimination plans for Michigan-bred pari-mutuel races; applicable rules.

Rule 5. (1) All races shall be conducted pursuant to the following elimination plan:

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(a) If more than 10 horses declare to start, elimination races shall be held 1 week before the final race.

(b) If 11 through 20 declare to start, 2 elimination heats shall be held with the first of 5 of each heat qualifying for the finals.

(c) If 21 through 30 declare to start, 3 elimination heats shall be held with the first 3 of each elimination heat qualifying for the finals.

(d) If 31 through 40 declare to start, 4 elimination heats shall be held with the first 2 in each heat qualifying for the final.

(e) If more than 40 declare to start, elimination heats shall be raced so that not more than 10 horses start in any elimination. The second place finishers shall be drawn by lot to determine which horses will fill the remaining positions for a total of not more than 10 starters.

(2) If less than 11 horses declare to start, they shall race the final without elimination heats for the total money available for that division.

(3) Racing of these Michigan-bred races, where not specifically covered by these rules, shall be raced pursuant to the rules of the Michigan racing commissioner.

History: 1954 ACS 99, p. 39, Eff. Apr. 21, 1979.

R 285.820.6 Purse distribution.

Rule 6. (1) Each purse in the Michigan-bred pari-mutuel races shall be divided among the winners of each race in the following manner:

5 or more starters	50%, 25%, 12%, 8%, 5%
4 starters	50%, 25%, 15%, 10%
3 starters	55%, 30%, 15%
2 starters	65%, 35%
1 starter	100%

(2) The purses for these elimination heats shall be derived from the purse pool of the host track.

History: 1954 ACS 99, p. 39, Eff. Apr. 21, 1979.

R 285.820.7 Ineligibility of person or entity to participate in future Michigan-bred pari-mutuel race programs.

Rule 7. A person or entity wilfully falsifying any documents required by these rules or wilfully accepting and retaining any purse monies contrary to these rules shall be ineligible to participate in any future Michigan-bred pari-mutuel race programs under the provisions of these rules.

History: 1954 ACS 99, p. 39, Eff. Apr. 21, 1979.

MICHIGAN STATE APPLE COMMISSION

R 285.854 Superseded.

History: 1944 AC, p. 73; 1954 AC, p. 1568.
Editor's note: R 285.854, pertaining to apples produced in Michigan, appears to have been superseded by R 290.1 to R 290.18.

REGULATION NO. 900. HEARING PROCEDURES

(By authority of Act No. 197 of the Public Acts of 1952, being §24.101 et seq. of the Michigan Compiled Laws)

R 285.900.1 Procedure for conducting hearings.

Rule 1. (1) (a) Whenever the word "person" is used, it shall mean an individual, firm, partnership, co-partnership, corporation, or association.

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(b) "Director" shall mean the director of agriculture.

(c) "Hearing" shall mean any contested case being heard by the director as provided by the statutes.

(2) Notification of any hearing before the director of agriculture or his duly authorized representative will be by registered mail, and will state the date, time and place the hearing is to be held and the reasons for holding such hearing. Such notice will be mailed at least 15 days prior to said hearing. (Most hearings will be held in the director's office in Lansing.)

(3) When an appearance is made at a hearing it shall be made either in person, by a duly authorized agent, or by counsel.

(4) The person or persons who have been served with a notice of the hearing may, at his option, file a written answer thereto prior to the date set for hearing, or at said hearing, may appear and present an oral or written statement on the charges contained therein.

(5) If the person or persons who have been previously served with a notice of hearing fail to appear at a noticed hearing, the director may proceed with a hearing of the cases brought before him and may, on the evidence presented, make his decision.

(6) The director may designate the deputy director to conduct an official hearing in the director's absence. In such case, the deputy director, after such hearing, shall file a written report thereof, including the evidence presented with the findings of fact and recommendations for appropriate action. Such written report shall be served upon the contested parties in the hearing. The director, before acting thereon, shall give the contesting parties notice that he intends to make a final decision on the contested case and provide the contesting parties with an opportunity to file exceptions and present arguments to him.

(7) At the contested hearing there shall be presented a fair and accurate statement of the information contained in the files of the department. The files and records of the department shall be available for inspection prior to or at the hearing and the whole or any part thereof, may be offered at said hearing as evidence on behalf of the department of agriculture.

History: 1944 ACS 33, p. 5; 1954 AC, p. 1567.

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DEPARTMENT OF LICENSING AND REGULATION

BOARD OF LANDSCAPE ARCHITECTS

(By authority of section 15 of Act No. 126 of the Public Acts of 1963, being §338.1215 of the Michigan Compiled Laws)

R 285.901.1 Definitions.

Rule 1. As used in these rules:

(a) "Board" means the board of landscape architects created by Act No. 126 of the Public Acts of 1963.

(b) "Director" means the state director of agriculture.

(c) "Year" means calendar year of 12 months.

History: 1954 ACS 44, p. 29, Eff. Nov. 14, 1965.

R 285.901.2 References.

Rule 2. Professional and character references from not fewer than 5 United States citizens not members of the board of landscape architects or related to the applicant shall be filed individually by the signer of the reference and not with the application blank. At least 3 of these references shall be registered landscape architects, licensed architects or professional engineers, but not less than 2 shall be registered landscape architects. All 5 references shall be received by the board before the applicant may be considered for registration.

History: 1954 ACS 44, p. 29, Eff. Nov. 14, 1965.

R 285.901.3 Education.

Rule 3. (1) Educational requirements of a school, college or university which has been accredited through the national commission on accrediting and offering an accredited course in landscape architecture, will be acceptable to the board under the provisions of section 6 of Act No. 126 of the Public Acts of 1963.

(2) If a school is now accredited, the board will consider such accreditation retroactive to the time when the graduate was in attendance. If a school is not now accredited, but offered an accredited course in landscape architecture at the time or part of the time of a graduate's attendance at the school, he will be given credit for the years he was in attendance.

(3) If credit for education is requested a transcript of credits shall be submitted with the application.

(4) An applicant may receive credit for those courses or equivalent courses that he has completed and that were in the required curriculum of an accredited professional program of landscape architecture at the time of his attendance.

(5) When equating a completed school year to a year of experience in determining the 7 years training and experience required in section 6 of Act No. 126 of the Public Acts of 1963, the board shall not accept extra curricular experience such as that obtained during vacations as additional time earned toward the required 7 years.

History: 1954 ACS 44, p. 29, Eff. Nov. 14, 1965.

R 285.901.4 Examination procedures.

Rule 4. (1) Notice of time, place, and date of examination will be published at least 60 days before the scheduled date of examination in newspapers, professional publications, and by such other means as may be deemed desirable.

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(2) Persons wishing to take the examination shall submit an application to the board at least 30 days prior to the scheduled date of the examination. A double card shall accompany the application. This card shall be numbered and returned to the applicant for admission to the examination.

(3) The examination shall be held at the place specified in the notice of examination in June of each year and at such other times as the board determines.

(4) A score of 75% shall be obtained on each section of the examination. Applicants passing the examination shall be so notified. Applicants failing the examination shall be notified of their scores on all sections.

(5) A person who fails to pass the examination may be reexamined in all sections for which that person applies. The highest score obtained on any section shall be the score used in determining the applicant's final score.

History: 1954 ACS 44, p. 30, Eff. Nov. 14, 1965; 1954 ACS 92, p. 16, Eff. June 21, 1977.

R 285.901.5 Examination subjects.

Rule 5. The examination shall cover the following subjects:

(a) History and theory of landscape architecture.
(b) Landscape architectural design.
(c) Landscape grading and construction.
(d) Planting design.
(e) Planting materials.
(f) Specifications and office practice.

History: 1954 ACS 44, p. 30, Eff. Nov. 14, 1965.

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DEPARTMENT OF AGRICULTURE

FAIRS DIVISION

REGULATION NO. 852. UPPER PENINSULA STATE FAIR

(By authority conferred on the commission of agriculture by sections 1 and 4 of Act No. 89 of the Public Acts of 1927, as amended, and sections 7, 9, 276, and 286 of Act No. 380 of the Public Acts of 1965, being §§285.141, 285.144, 16.107, 16.109, 16.276, and 16.286 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 285.1101 Definitions.

Rule 101. As used in these rules:

(a) "Agricultural exhibitor" means a person who enters an exhibit in the agricultural and livestock departments of the fair.

(b) "Board" means the Upper Peninsula state fair board of managers.

(c) "Commission" means the commission of agriculture.

(d) "Community arts or youth exhibitor" means a person who enters an exhibit in the community arts or youth departments of the fair.

(e) "Concessionaire or exhibitor license" means a license agreement to operate a stand or exhibit, the main purpose of which is to exhibit commercial products, to solicit prospective buyers, or to make direct sales at the fair.

(f) "Concession stand" means a stand which sells and immediately delivers food, beverages, specialty items, balloons, art work, novelties, or other like items to fair patrons.

(g) "Department" means the department of agriculture.

(h) "Director" means the director of agriculture.

(i) "Educational exhibitor" means an educational, charitable, or nonprofit corporation exhibitor granted a license by the fair.

(j) "Exhibit" means an article, item, livestock, or poultry entered for public display at the fair.

(k) "Exhibitor" means a holder of an exhibit license, his agent, or designated representative.

(l) "Fair" means the Upper Peninsula state fair staged in Escanaba, Michigan.

(m) "Food concession" means a place or stand which sells or serves food or beverages, or both, and includes a restaurant and grabstand.

(n) "Games of skill" means a single location at the fair that contains 1 or more units of play of a game of skill. The number of units of play is of no importance as long as all units of play are in the same location and are not separated from each other by wall, canvas, or other partition.

(o) "Grabstand" means a place serving hamburger sandwiches, hot dogs, or other specialty food, soft drinks, and coffee.

(p) "Licensor" means the Upper Peninsula state fair by its duly authorized representative.

(q) "Manager" means the duly appointed state civil service manager of the fair.

(r) "Non-fair license" means a license agreement, other than a lease, for use of any part of the buildings or fairgrounds when the fair is not in operation.

(s) "Premium book" means the publication relating to the administration of the annual fair event, prepared by the manager.

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(t) "Restaurant" means a place serving plate lunches, dinners, or any other meal consisting of 2 or more foods.

History: 1954 ACS 95, p. 35, Eff. Mar. 21, 1978.

R 285.1102 Scope; business transactions; premium book rules; rates and fees; concession rights.

Rule 102. (1) R 285.1101 applies to the operation of the fairgrounds during the fair and at other times.

(2) Business transactions of the fair shall be conducted according to established practices and procedures of the state of Michigan, subject to such special procedures as may be established by resolution of the commission.

(3) All rules as printed in the annual premium book shall be binding upon all persons or events where applicable. The manager, as delegated by the director, reserves the right to interpret all of the rules in the premium book.

(4) The manager and the fair board shall recommend admission charges, license rental rates and fees, and the commission shall approve or adjust the recommended rates.

(5) The commission retains all concession rights unless specifically granted to a licensee. If the licensee is granted concession rights, the licensee shall supervise his own concessions or the contracts for such concessions.

(6) The parking privilege shall remain the exclusive domain of the commission.

History: 1954 ACS 95, p. 35, Eff. Mar. 21, 1978.

R 285.1103 Interpretation of rules.

Rule 103. (1) The commission, after consultation with the Upper Peninsula state fair board, reserves the right to interpret these rules and to settle and determine questions and disputes in regard thereto or otherwise arising out of, connected with, or incident to, the operation of business.

(2) The provisions printed in the premium book, the concessionaire license, exhibitor license, and non-fair license shall be followed in the operation and conduct of business during and after the fair or event.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

R 285.1104 Inspection of premises.

Rule 104. The fair management and authorized agents for governmental agencies, at any time, may enter upon and inspect any portion of the licensed premises to enforce provisions of a license, applicable statutes, ordinances, and rules.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

R 285.1105 Procurement of services.

Rule 105. The manager shall follow the state administrative manual and department policies and procedures relative to the procurement of services.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

R 285.1106 Program substitutions.

Rule 106. The Upper Peninsula state fair management reserves the right to make substitutions at any time in programs and entertainment without refunding admission fees.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

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PART 2. FAIR OPERATIONS

R 285.1201 Registration of businesses with state; hiring of minors.

Rule 201. (1) Michigan state law requires that businesses operating in Michigan be registered pursuant to the assumed or fictitious name act, and further, that corporations be registered with the state treasury department and department of commerce.

(2) Michigan department of labor rules relative to the hiring of minors shall be strictly enforced.

(3) Failure to meet the requirements in subrules (1) and (2) is grounds for cancellation of the license by the manager.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

R 285.1202 Advertising; violation.

Rule 202. (1) A licensee, patron, or other person shall not place any advertising matter on a building, tree, or any other place on the grounds or distribute advertising matter or literature outside the place assigned by the terms of the license.

(2) A person found in violation of this rule by the manager shall be subject to expulsion from the fairgrounds and forfeiture of his contract and fees without recourse.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

R 285.1203 Intoxicating beverages.

Rule 203. Liquor or other intoxicating beverages shall not be permitted on the fairgrounds.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

R 285.1204 Dogs.

Rule 204. Owners shall register their dogs with the manager and comply with all terms of the registration form. If an owner fails to register a dog, the owner shall be ordered to remove the dog from the fairgrounds. A dog shall be under leash by owner or representative at all times on the fairgrounds.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

PART 3. CONCESSIONAIRE, EXHIBITOR, AND NON-FAIR LICENSEES

R 285.1301 Concessionaire, exhibitor, and non-fair licenses; application and issuance procedure; space rental; revocation.

Rule 301. (1) The procedure described in this rule governs the issuance of concessionaire, exhibitor, and non-fair licenses.

(2) A person seeking concession or exhibit space shall write to the manager requesting a space application form, stating articles to be sold or displayed, electrical requirements, and space required.

(3) A person or organization desiring to distribute, exhibit, or sell printed material or items on the fairgrounds shall apply to the manager for a license. An application for a license shall be completely and correctly filled out and signed. An omission or misrepresentation is sufficient cause for refusal or revocation of the license by the manager. If the manager questions the legality or feasibility of the request, the applicant may request a review by the director. A license, if given final approval, shall be signed and executed by the manager.

(4) Concessionaires and exhibitors with established satisfactory performance records at the fair, as determined by the manager, may be granted licenses upon

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proper request before licenses are issued to new concessionaires and exhibitors. The manager shall determine the eligibility and desirability of all license requests subject to review by the director.

(5) All concessionaire and exhibitor license applicants shall be notified in writing of approval or disapproval. If the license requires the signatures of corporate officers, other than the individuals supervising the exhibit, such transaction may be carried out by mail. At the time of signing of the license, the exhibitor shall agree on the location of his exhibit space.

(6) At the time of the signing of the concession or exhibit license, the concessionaire or exhibitor shall pay 50% of the space rental, and he shall pay the remaining 50% before the close of the second day of the fair. Payments shall be in cash, or by money order, certified check, or cashier's check.

(7) At the time of signing the non-fair license, the non-fair licensee shall pay 50%, to a maximum of $100.00, of the space rental, and he shall pay the remaining amount of the license fee 1 day prior to the first day of rental under the license. Payments shall be in cash, or by money order, certified check, or cashier's check.

(8) A concessionaire, exhibitor, and non-fair licensee shall abide by the provisions of the appropriate license forms and by the rules of the department fairs division. A license may be revoked by the licensor, and no claim for damages shall accrue to a licensee, if a licensee defaults in the strict performance of any provision, term, or condition of the license.

(9) This procedure shall be followed in all cases and all licenses shall be signed by the manager.

History: 1954 ACS 95, p. 36, Eff. Mar. 21, 1978.

R 285.1302 Rejection or conditional acceptance of application.

Rule 302. The manager may reject, or accept conditionally, an application for a license.

History: 1954 ACS 95, p. 37, Eff. Mar. 21, 1978.

R 285.1303 Space allocation.

Rule 303. The allocation, number, and location of concessionaire, exhibitor, and non-fair licensee spaces shall be determined by the manager.

History: 1954 ACS 95, p. 37, Eff. Mar. 21, 1978.

R 285.1304 Cancellation of space allotment and license.

Rule 304. (1) A space allotment and license may be cancelled by the manager if a concessionaire or exhibitor fails to occupy the space allotted to him with the concession or exhibit specified on his license before the opening of the fair, or for violation of the license, state law, city ordinance, or these rules.

(2) A concessionaire or exhibitor may cancel the space allotted to him for the fair by advising the manager in writing on or before July 1 of the year in which he has a license, or forfeit the 50% payment without recourse.

(3) The manager may refund 80% of the payment received from fair licensed concessionaires or exhibitors if a license is properly cancelled prior to July 1 of the year the license is issued.

(4) The manager may refund 80% of the payment received from non-fair licensees if a license is properly cancelled by the manager not less than 14 days prior to the start of the event. Refunds are not payable if a non-fair license is cancelled within 13 days of the start of the event or during the event.

History: 1954 ACS 95, p. 37, Eff. Mar. 21, 1978.

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R 285.1305 Relocation of concession or exhibit.

Rule 305. The manager reserves the right to require a concessionaire or exhibitor to locate at, or move his concession or exhibit to, some other site if the manager deems it advisable or for the best interest of the fair. If the manager cannot find a suitable alternate site, the concessionaire or exhibitor is entitled to a pro rata refund of space rent paid.

History: 1954 ACS 95, p. 37, Eff. Mar. 21, 1978.

R 285.1306 Access to fairgrounds before opening day.

Rule 306. A concessionaire or exhibitor shall be granted access to the fairgrounds and exhibit buildings from 8:30 a.m. to 5 p.m. daily, including Saturday and Sunday, for 5 days before the opening day of the fair for the purpose of preparing his exhibits or concessions. Special written permission to set up earlier shall be obtained from the manager.

History: 1954 ACS 95, p. 38, Eff. Mar. 21, 1978.

R 285.1307 Construction of exhibits; structural changes.

Rule 307. (1) An exhibit in a building shall be constructed so it does not obstruct the public's view of an adjacent exhibit.

(2) A concessionaire's or exhibitor's displays and advertising which form the back wall of his concession or exhibit shall not exceed 8 feet in height, except if he has obtained written permission from the fair management.

(3) A concessionaire, exhibitor, or non-fair licensee shall not mark, paint, drill, dig, or in any manner deface the licensed premises, except by written permission of the manager, and at the expiration of the license, shall surrender the licensed premises in as good condition as when first occupied.

(4) A licensee shall discuss with, and secure written approval of, the fair management before electrical wiring, decorations, partitions, or other structural changes are made in the rented buildings or on the grounds.

History: 1954 ACS 95, p. 38, Eff. Mar. 21, 1978.

R 285.1308 Signs and advertising; concession permits.

Rule 308. (1) A concessionaire or exhibitor shall not place a sign or advertisement, which hangs over an aisle, in a building.

(2) A concessionaire, exhibitor, or non-fair licensee shall post on his licensed premises only such signs as the manager permits.

(3) A concession permit issued by the manager shall be posted in a conspicuous location on the concession stand before the concessionaire may start to operate.

History: 1954 ACS 95, p. 38, Eff. Mar. 21, 1978.

R 285.1309 Set up and electrical hookup authorizations.

Rule 309. An authorization for set up and electrical hookups shall be granted only after a concessionaire, exhibitor, or non-fair licensee applies in person at the manager's office, and presents a copy of his license or receipts which denote compliance with payment requirements.

History: 1954 ACS 95, p. 38, Eff. Mar. 21, 1978.

R 285.1310 Electrical power; electricians; inspection of electrical connections; approval tag; payment for electrical services.

Rule 310. (1) The Upper Peninsula state fair shall furnish electrical power only to the point of outlet. The Upper Peninsula state fair is not responsible for

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defective appliances brought onto the fairgrounds by concessionaires, exhibitors, or non-fair licensees. Special and additional connections for the operation of spotlights, lamps, fans, motors, signs, and other equipment shall be furnished by the concessionaire, exhibitor, or non-fair licensee. Such requirements shall be requested by the concessionaire, exhibitor, or non-fair licensee on the application furnished by the Upper Peninsula state fair.

(2) Electricians shall be provided by the Upper Peninsula state fair or an electrical contractor to be in attendance on the fairgrounds before, during, and after the Upper Peninsula state fair or event, with whom the concessionaire, exhibitor, or non-fair licensee may make arrangements for necessary electrical service. It shall be the electrician's responsibility that all electrical connections are properly grounded and deemed safe.

(3) Final inspections of all electrical connections shall be made by the state electrical board pursuant to the rules and regulations contained in Act No. 217 of the Public Acts of 1956, being §338.881 et seq. of the Michigan Compiled Laws.

(4) A concessionaire, exhibitor, or non-fair licensee shall display an "electrical approved" tag on the operating permit before the licensee is allowed to tie into the current provided by the Upper Peninsula state fair.

(5) Payment for electrical services provided by the Upper Peninsula state fair shall be made by the concessionaire, exhibitor, or non-fair licensee before the fair or event. Failure to make payment precludes the concessionaire, exhibitor, or non-fair licensee from using the fair facilities.

History: 1954 ACS 95, p. 38, Eff. Mar. 21, 1978.

R 285.1311 Concession, exhibit, and building hours.

Rule 311. A concession or exhibit shall be open to the public, and in the charge of a competent attendant, from 11 a.m. to 11 p.m. on each day of the fair. Exhibit buildings shall be open to exhibitors 2 hours before scheduled opening time, and exhibitors shall vacate the buildings within 1 hour after closing.

History: 1954 ACS 95, p. 39, Eff. Mar. 21, 1978.

R 285.1312 Supervision of buildings; police and fire protection.

Rule 312. (1) Supervision by building superintendents, guards, or watchmen shall be provided for exhibit buildings 2 days before the fair, during the fair, and until 5 p.m. the day after the fair.

(2) The fair management shall provide concessionaires, exhibitors, and non-fair licensees with normal police and fire protection during the fair and other events.

History: 1954 ACS 95, p. 39, Eff. Mar. 21, 1978.

R 285.1313 Licensee property; protection; liability for loss or damage.

Rule 313. The fair management shall use diligence to protect concessionaire, exhibitor, and non-fair licensee property after its arrival on the fairgrounds. However, the state, its officers, agents, and employees are not liable for loss, injury, or damage to a concessionaire, exhibitor, or non-fair licensee caused by fire, accident, condition of structure, or negligence of another concessionaire, exhibitor, or non-fair licensee, or for any other reason whatever.

History: 1954 ACS 95, p. 39, Eff. Mar. 21, 1978.

R 285.1314 Assumption of risk by licensee; portable materials; shipments.

Rule 314. (1) A concessionaire, exhibitor, or non-fair licensee shall assume all risks ensuing from merchandising and exhibiting while at the fairgrounds.

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(2) A concessionaire, exhibitor, or non-fair licensee shall give special attention to the protection of portable materials during the set up period and during the tear down period following an event at the fairgrounds.

(3) A shipment of materials unaccompanied by its owner shall be consigned entirely at the owner's risk. A shipment shall be addressed to the concessionaire, exhibitor, or non-fair licensee in care of the Upper Peninsula State Fairgrounds, Escanaba, Michigan 49829, and shall be clearly marked with the concessionaire space, license number, or exhibit building and booth number. A shipment shall be accepted upon delivery at the fairgrounds if properly marked, and if cartage and other charges have been prepaid.

History: 1954 ACS 95, p. 39, Eff. Mar. 21, 1978.

R 285.1315 Insurance; property damage, public liability, and workmen's compensation.

Rule 315. A concessionaire, exhibitor, or non-fair licensee is responsible for providing his own insurance protection against property damage, public liability, and workmen's compensation as required by Michigan statutes pursuant to his license.

History: 1954 ACS 95, p. 39, Eff. Mar. 21, 1978.

R 285.1316 Certificates of insurance.

Rule 316. Property of a concessionaire, exhibitor, or non-fair licensee who is required, pursuant to R 285.1315, to carry insurance shall not be admitted on the Upper Peninsula state fairgrounds unless the concessionaire, exhibitor, or non-fair licensee presents to the manager before the opening of the fair or event a certificate of his public liability and property damage insurance properly signed and dated by the insurance carrier. This provision also applies to workmen's compensation insurance pursuant to Michigan statutes. If the concessionaire, exhibitor, or non-fair licensee is a self-insurer under the Michigan workmen's compensation act, authorization for such self-insurance shall be presented to the manager.

History: 1954 ACS 95, p. 39, Eff. Mar. 21, 1978.

R 285.1317 Applicable laws and ordinances; copies; fire regulations.

Rule 317. A concessionaire, exhibitor, or non-fair licensee shall obey and conform to all laws of this state, and health, fire, and pertinent ordinances of the city of Escanaba and this state which pertain to concessions, exhibits, and events. Copies of these ordinances shall be available in the Upper Peninsula state fair office. A licensee shall agree to obey immediately any order or regulation of the fire marshal or the manager regarding fire protection and fire hazards.

History: 1954 ACS 95, p. 39, Eff. Mar. 21, 1978.

R 285.1318 Admission tickets.

Rule 318. A concessionaire, exhibitor, or non-fair licensee is not entitled to free admission tickets. He may obtain reduced rate admission tickets at a rate approved by the commission. A refund shall not be made for unused tickets.

History: 1954 ACS 95, p. 40, Eff. Mar. 21, 1978.

R 285.1319 Parking area; permits.

Rule 319. Concessionaires, exhibitors, and non-fair licensees shall park in an area designated by the manager. Parking permits may be obtained by licensees at the prevailing rate established by the board.

History: 1954 ACS 95, p. 40, Eff. Mar. 21, 1978.

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R 285.1320 Parking stickers; display; service vehicles.

Rule 320. (1) On the opening day of the fair or event, and at all times thereafter, concessionaire, exhibitor, and non-fair licensee vehicles shall display a parking sticker issued by the manager, shall enter and exit the fairgrounds through a gate designated by the manager, and shall be subject to inspection by persons designated by the manager.

(2) During the fair or event all vehicles servicing concessions and exhibits shall enter the fairgrounds through the designated gate. Such vehicles may be used to service and supply concessions and exhibits until 10 a.m. daily, at which time the vehicles shall leave the fairgrounds proper and return to the concessionaire, exhibitor, or non-fair licensee parking lots or leave the grounds. Failure to comply with this rule shall result in the vehicle being towed away at the owner's expense, and shall be cause for cancellation of the license issued by the manager.

History: 1954 ACS 95, p. 40, Eff. Mar. 21, 1978.

R 285.1321 Mailing lists.

Rule 321. A concessionaire, exhibitor, or non-fair licensee who desires to acquire mailing lists during the period of the fair or event shall submit in writing a description of the purpose for the list and the method he proposes to use in acquiring the list. A licensee shall not attempt to acquire a mailing list of patrons by any method or scheme unless he has received written permission from the manager.

History: 1954 ACS 95, p. 40, Eff. Mar. 21, 1978.

R 285.1322 Advertisement and sale of products; handbills; solicitors; sale without over the counter delivery; false advertising.

Rule 322. (1) A concessionaire or exhibitor shall not advertise or sell a product from the space allotted to him for a company not specified on his license.

(2) A concessionaire, exhibitor, or non-fair licensee shall distribute handbills or other advertising matter only within the confines of his licensed space.

(3) A concessionaire's or exhibitor's solicitors shall not be allowed to operate outside their licensed space.

(4) Retail selling, with or without "over the counter" delivery of an item, is not allowed, except if such privilege has been specifically applied for and approved pursuant to these rules. The licensee shall furnish pictures or other evidence identifying the articles for which the retail sales privilege is asked when requested by the manager.

(5) Willful or intentional misrepresentation or false advertising shall be reported to the attorney general of this state.

History: 1954 ACS 95, p. 40, Eff. Mar. 21, 1978.

R 285.1323 Give-aways.

Rule 323. (1) A concessionaire, exhibitor, or non-fair licensee shall obtain from the manager written permission to distribute give-aways, which shall be evidenced by official approval on the face of the concessionaire, exhibitor, or non-fair license. This authorization shall be applied for during the time when the license for space is being negotiated but not later than 2 weeks before the opening day of the Upper Peninsula state fair or event.

(2) Advertising give-aways which may conflict with any type of concession for which a license has been granted shall not be distributed by a concessionaire, exhibitor, or non-fair licensee.

History: 1954 ACS 95, p. 40, Eff. Mar. 21, 1978.

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R 285.1324 Price adjustment.

Rule 324. The manager reserves the right to make adjustments in retail and wholesale prices. If, in the opinion of the manager, a retail or wholesale concessionaire fails to justify as reasonable the prices he is charging for merchandise, the manager may adjust such prices.

History: 1954 ACS 95, p. 40, Eff. Mar. 21, 1978.

R 285.1325 Attention attraction devices; undue noise and objectionable operating methods.

Rule 325. (1) A voice amplifier, musical instrument, radio, or other similar device for the purpose of attracting attention to a concession or exhibit shall be used with discretion.

(2) Undue noise from the operation of a concession or exhibit, or noisy or objectionable methods employed in sales or demonstration activities shall not be tolerated. A concessionaire, exhibitor, or non-fair licensee shall have an equal opportunity to conduct his own demonstrations without interference from his neighbors. The final decision of what constitutes undue noise or objectionable methods shall be made by the manager.

History: 1954 ACS 95, p. 41, Eff. Mar. 21, 1978.

R 285.1326 Refuse removal.

Rule 326. A concessionaire or exhibitor shall sweep refuse from his premises into the building aisles, or onto the streets, from 11 p.m. to midnight each night. Fair clean-up personnel shall sweep this refuse from commercial exhibit buildings and areas adjacent to concession stands each night after the buildings and streets are empty. Fair clean-up personnel are forbidden to enter the concessionaires' or exhibitors' booths within buildings or concession stands.

History: 1954 ACS 95, p. 41, Eff. Mar. 21, 1978.

R 285.1327 Unclean and destroyed premises.

Rule 327. If the premises occupied by a concessionaire, exhibitor, or non-fair licensee are destroyed in any degree, or left in an unclean condition as a result of the use of the premises by the concessionaire, exhibitor, or non-fair licensee, the manager shall repair or clean the premises and charge the concessionaire, exhibitor, or non-fair licensee the cost of such labor and materials. Failure or refusal to pay such charge by a concessionaire, exhibitor, or non-fair licensee precludes such party from eligibility to exhibit until such charge is paid.

History: 1954 ACS 95, p. 41, Eff. Mar. 21, 1978.

R 285.1328 Removal of exhibits; releases.

Rule 328. (1) A concessionaire, exhibitor, or non-fair licensee shall arrange for removal of his stands and exhibits under his own supervision. A stand, exhibit, or any part thereof, shall not be removed before the close of the fair without written permission of the manager.

(2) As a protection to concessionaires and exhibitors, fair releases shall be required for all material taken from the fairgrounds at the end of the fair. Releases shall be issued by the manager at the designated fair closing time and during regular office hours on days after the close of the fair.

History: 1954 ACS 95, p. 41, Eff. Mar. 21, 1978.

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R 285.1329 Prohibited activities; protests.

Rule 329. The licensee covenants to sell, handle, serve, display, or exhibit only such articles as are specified on the license, and only from and upon the space assigned, except that the manager may forthwith prohibit the display, sale, or giving away of an item which he considers to be endangering public health, safety, or morals. The licensee agrees to comply immediately with such a ban. Within 24 hours, the licensee may file a written request for a review of the manager's decision by the director. The display, sale, or giving away of an item shall not be permitted unless the decision of the manager is reversed by the director.

History: 1954 ACS 95, p. 41, Eff. Mar. 21, 1978.

R 285.1330 Fraud and misrepresentation.

Rule 330. The manager shall guard against any form of fraud practiced on patrons of the fairgrounds. Willful and intentional misrepresentations or false advertising shall result in expulsion of the concessionaire, exhibitor, or non-fair licensee from the fairgrounds, and forfeiture of his contract and fees without recourse. The manager shall immediately report such suspected fraud or intentional misrepresentation to the attorney general of this state.

History: 1954 ACS 95, p. 41, Eff. Mar. 21, 1978.

R 285.1331 Fair officers' and employees' interest in a license, concession, or exhibit.

Rule 331. An officer or employee of the fair shall not have a concessionaire or exhibitor license, or any interest in, or connection with, a concession or exhibit operated on the fairgrounds. If such an interest or ownership is discovered, the license shall be cancelled, all money paid for the license shall be forfeited without recourse, and the employee shall be dismissed.

History: 1954 ACS 95, p. 41, Eff. Mar. 21, 1978.

R 285.1332 Labor unions.

Rule 332. The manager may cancel a license in case of labor union difficulties involving a concessionaire, exhibitor, or non-fair licensee which may lead to, or result in, a strike or picketing of the fairgrounds. A concessionaire, exhibitor, or non-fair licensee whose license is cancelled is not entitled to a pro rata refund of unearned rental for the balance of the period provided for in his license. In such case, no liability for damages is chargeable to the state, its officers, agents, and employees.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

PART 4. FOOD CONCESSIONS

R 285.1401 Applicable rules; copies.

Rule 401. Regulation No. 514, being R 285.514 of the Michigan Administrative Code, governing cooking, dispensing, and sale of foods and beverages shall apply and be strictly enforced. Failure to comply with this rule and other applicable rules and regulations is grounds for cancellation of a food concession license. Detailed copies of the regulation shall be available at the Upper Peninsula state fair office.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

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R 285.1402 Additional health regulations.

Rule 402. A food licensee may be subject to additional health regulations which are deemed necessary by the state and city health authorities. He shall be notified of such additional regulations.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

R 285.1403 Violation of health, sanitation, and food laws.

Rule 403. A licensee who sells or dispenses food products or beverages expressly agrees that the manager may close the licensee's place of business or expel such licensee, his or its agents, servants, and employees from the fairgrounds, with forfeiture of all license fees, if such licensee, after being duly warned by the manager, receives a notice of a violation of health, sanitation, or food laws from appropriate governmental representatives. The licensee may appeal the closing of his place of business, or his expulsion, by filing a written request for a review of the decision of the manager by the director, but his place of business shall not be permitted to operate until the director reverses the decision of the manager.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

R 285.1404 Sinks; water heaters.

Rule 404. A restaurant shall have a 2-compartment sink so dispensing dishware and cooking utensils may be washed, rinsed, and sterilized pursuant to state and city health requirements. A restaurant shall have a gas or electric water heater of sufficient size to insure an adequate supply of hot water to meet state and city health requirements.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

R 285.1405 Garbage cans; liners.

Rule 405. A food concession licensee shall furnish a minimum of 2 20-gallon garbage cans with tops unless more are required by the manager. A restaurant licensee shall furnish a sufficient number of garbage cans, as designated by the fair management. Appropriate can liners or bag liners shall be furnished by the licensee and shall be used in all garbage cans. When these are filled, they shall be promptly removed, closed securely, neatly piled for pickup in a given area, and a new liner inserted. The fair shall provide garbage pickup each day.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

R 285.1406 Disposable cups and eating utensils.

Rule 406. A food concession licensee shall serve soft drinks to customers only in paper cups. Dishes and eating utensils used by the public shall be disposable and of a single service variety. Nonreturnable bottles of no deposit no return variety are not allowed on the fairgrounds.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

R 285.1407 Restaurant and grabstand seating.

Rule 407. A restaurant may seat patrons on stools, at a counter, or in chairs at a table. A grabstand may be without seating facilities or may seat patrons on stools, at a counter, or in chairs alongside the stand.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

R 285.1408 Item pricing.

Rule 408. A licensee shall price all items for sale or post price lists on cards in a conspicuous place on his stand.

History: 1954 ACS 95, p. 42, Eff. Mar. 21, 1978.

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PART 5. AGRICULTURAL EXHIBITS

R 285.1501 Competition open to residents.

Rule 501. Competition in agricultural exhibits is open only to Upper Peninsula residents, unless otherwise specified. All agricultural exhibitors shall own and exhibit their respective entries, unless otherwise specified.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1502 Special offers.

Rule 502. The fair management, board, and commission are not responsible for payment of special offers by various associations and individuals. The manager, however, shall furnish the various associations necessary lists of winning fair agricultural exhibitors upon request.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1503 Entry applications; closing date; right to compete.

Rule 503. (1) Application for entries in all departments shall be made by an agricultural exhibitor on the printed form provided by the fair for that purpose. The agricultural exhibitor, by signing the form, agrees to comply with the provisions printed on it and in the premium book. Applications for stalls and pens shall be sent directly to the Upper Peninsula State Fair, Escanaba, Michigan 49829, at the time entries are made.

(2) Entries in the departments shall close on the dates listed for those departments in the premium book, or at such time as all available space has been allotted. Entries shall not be accepted thereafter unless the time is extended by appropriate action of the manager.

(3) A question as to the propriety or right of an animal or article to compete in a class shall be submitted to the manager for determination.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1504 Entrance fees; refunds.

Rule 504. An entrance fee, as stated in the premium book under each of the several departments or on the forms for applying for entries, shall be charged the agricultural exhibitor in each department and shall be paid at the time specified in the premium book. Fees shall not be refunded for animals entered but not exhibited, except if the request for refund is presented in writing stating the agricultural exhibitor's reason for such request, and is approved by the manager.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1505 Conditional acceptance or cancellation of entries; prizes.

Rule 505. The manager, as authorized by the director, reserves the right to refuse, to accept conditionally, or to cancel any entries and awards of a prize for justifiable cause without claim for damages. Cancellations or additional entries shall not be permitted after closing dates, unless the manager determines that there is justifiable grounds for such action.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1506 Exhibition time; late arrival.

Rule 506. Agricultural exhibits in each department shall be in place for exhibition at the time specified in the printed provisions for each department. Agricultural exhibitors arriving late shall be excluded from exhibition, except

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those coming directly from other fairs with advance written permission of the manager.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1507 Failure or refusal to exhibit.

Rule 507. An agricultural exhibitor who fails or refuses to exhibit an animal or article for any reason which proves unsatisfactory to the manager shall forfeit all fees and rents paid by him, as well as premiums won by earlier agricultural exhibits. The manager may order the agricultural exhibitor to vacate such stalls, pens, or space, and remove such animals or articles from the fairgrounds.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1508 Removal of exhibits.

Rule 508. Agricultural exhibits shall be removed at the time specified in the premium book. Agricultural exhibitors disregarding this rule shall forfeit all premiums, rights, and privileges without recourse.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1509 Exhibits; protection; liability for loss or damage.

Rule 509. The fair management shall use diligence to protect livestock and articles entered for agricultural exhibition or display after their arrival on the fairgrounds. However, the state, its officers, agents, and employees are not liable for loss, injury, or damage to such livestock or articles for any reason.

History: 1954 ACS 95, p. 43, Eff. Mar. 21, 1978.

R 285.1510 Superintendent's duties.

Rule 510. (1) A superintendent shall have charge of the department to which he is assigned, and shall be responsible for assignment of space, and showing of the agricultural exhibits, and other related activities assigned by the manager, and shall enforce all provisions, procedures, and regulations related to his department.

(2) A superintendent shall direct the calling of classes for judging in accordance with the printed program as far as practicable, and shall ensure that the judges report fully upon each animal or article exhibited in each class.

(3) A superintendent shall ensure that the numbers representing awards are correctly entered on the award sheets, check all numbers, have each book signed by the judge and ring clerk, affix his signature and date, and when completed return the book and all department related records to the entry office.

(4) Such duties shall be performed under the direction of the manager.

History: 1954 ACS 95, p. 44, Eff. Mar. 21, 1978.

R 285.1511 Judges; self-interest; objections.

Rule 511. (1) A person shall not act as judge in a class in which he may be interested as an agricultural exhibitor, agent or employee of an agricultural exhibitor, or otherwise. In such case, the manager shall remove the interested judge and substitute another judge for that specific class.

(2) Objections to a person serving as judge shall be submitted to the superintendent in writing, prior to the making of an award, giving good and sufficient reasons therefor. The superintendent shall refer this to the manager who shall resolve the problem arising from the objection.

History: 1954 ACS 95, p. 44, Eff. Mar. 21, 1978.

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R 285.1512 Judges; duties; decision.

Rule 512. (1) Judges shall report to the superintendent at their headquarters at the time fixed for awarding premiums on the lots which they are to judge.

(2) If a judge has good reason to believe that an agricultural exhibitor, by false entry or otherwise, attempts to deceive the judge or the public to obtain a premium by misrepresentation, he shall report the facts immediately to the superintendent. The superintendent shall report immediately to the manager for a determination of the eligibility of the agricultural exhibitor to show the animal or article involved.

(3) The decision of the judges shall be final, except in the case of a formal protest, pursuant to R 285.1513.

History: 1954 ACS 95, p. 44, Eff. Mar. 21, 1978.

R 285.1513 Formal protests.

Rule 513. A formal protest by an agricultural exhibitor shall be made in writing to the manager, accompanied by an affidavit setting forth the grounds for the protest. A formal protest against an agricultural exhibition of animals or articles shall be filed not less than 24 hours before the judging takes place and the manager shall hear such protest and make a decision before the judging. A formal protest against a placing shall be filed not more than 6 hours after the placing is made, and shall be considered by the manager. Interested parties shall be duly notified and given an opportunity to submit evidence pursuant to a procedure established by the director, before a final decision is made.

History: 1954 ACS 95, p. 44, Eff. Mar. 21, 1978.

R 285.1514 Premiums; payment; forfeiture; proration.

Rule 514. (1) Only judges' books shall be used as evidence of payment of premiums. Ribbons and tags are not acceptable for this purpose.

(2) An agricultural exhibitor who insults a judge in any manner, or influences another person to do so, shall be reported to the manager by the judge or the superintendent. The manager may order that the agricultural exhibitor shall forfeit all premiums and be excluded from exhibiting all his animals or articles.

(3) The board may authorize the manager to prorate the premium money in such department or section within the total amount allocated to a department or section.

History: 1954 ACS 95, p. 44, Eff. Mar. 21, 1978.

R 285.1515 Fraud.

Rule 515. The manager shall take cognizance of fraud which may have been consummated or attempted, and may deal with any person implicated therein in such manner as the manager deems just and proper. All such suspected fraud shall be immediately reported to the attorney general of this state.

History: 1954 ACS 95, p. 44, Eff. Mar. 21, 1978.

R 285.1516 Release of exhibits.

Rule 516. (1) The release time of agricultural exhibits is specified in the provisions listed in the premium book at the beginning of each department's section. An agricultural exhibitor removing an animal or article before the hour of release for that department without written permission of the manager shall forfeit all fees paid and all premiums and awards won.

(2) The manager may change the time of release in a department at his discretion.

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(3) If an agricultural exhibitor requests an early release for the sole purpose of entering another fair, the manager shall receive from the other fair an official confirmation advising the acceptance of entries and stating the dates of judging. This confirmation shall be made available to the manager not later than the day before the opening day of the fair.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

R 285.1517 Interpretation and violation of rules.

Rule 517. (1) The manager shall interpret the meaning and application of rules in parts 5 and 6. A request for an opinion, either by an agricultural exhibitor or judge, shall be made in writing and returned to the entry office with the award books.

(2) The disregarding or violation of these rules by an agricultural exhibitor shall result in forfeiture of all premiums, rights, and privileges without recourse.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

PART 6. ANIMAL EXHIBITS

R 285.1601 Occupancy of reserved stalls and pens.

Rule 601. An agricultural exhibitor reserving stalls or pens and not occupying them on or before the time specified for the animals to be in place, as listed in the premium book, forfeits the entry and stall or pen fees, and the stall or pen is subject to reassignment.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

R 285.1602 Approval of health conditions.

Rule 602. Cattle, sheep, horses, goats, and swine are not permitted to remain on the grounds unless the health conditions of the animals have been approved by the state veterinarian or his assistant.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

R 285.1603 Recent champions; pictures.

Rule 603. Pictures of the latest fair champions may be printed in the premium book only as approved by the manager.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

R 285.1604 Exhibitor vehicles; parking; unloading; registration.

Rule 604. (1) A vehicle parking area may be provided for exhibitors of horses, goats, cattle, sheep, and swine.

(2) Agricultural exhibitors shall remove their vehicles from the area adjacent to buildings as soon as the unloading of animals and supplies is completed and shall park vehicles in designated areas.

(3) Vehicles used for sleeping, camping, or living quarters shall be registered with the manager and parked in the area designated by the manager. Any fees shall be collected at the time of registration of the vehicle.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

R 285.1605 Cleaning stalls and pens; grooming animals.

Rule 605. An agricultural exhibitor shall keep his stalls and pens clean and well bedded. All animals shall be groomed for exhibit. In case of failure to do so, the manager may dismiss the agricultural exhibitor from the fairgrounds and the agricultural exhibitor shall forfeit all fees and premiums won.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

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R 285.1606 Feed and bedding.

Rule 606. The fair may furnish all feed for poultry, pigeons, rabbits, and cavies and also the first feeding and bedding for livestock.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

R 285.1607 Purebred animals.

Rule 607. Superintendents shall ascertain the name and registry number of all animals shown in purebred classes and these shall be shown on the judges' report sheets before payment of premium is made.

History: 1954 ACS 95, p. 45, Eff. Mar. 21, 1978.

R 285.1608 Delay in showing.

Rule 608. The superintendents of livestock departments may exclude an animal from all competition if there is unnecessary or embarrassing delay by the agricultural exhibitor in bringing the animal into the show ring. The agricultural exhibitor shall forfeit all fees and premiums won.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

R 285.1609 Substitution of animals.

Rule 609. An animal in the same class may be substituted by an agricultural exhibitor for reasons satisfactory to the manager if the substitution is made on or before the day prior to the opening day of the fair, and if the animal substituted is owned by the agricultural exhibitor at the time entries close.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

PART 7. COMMUNITY ARTS AND YOUTH EXHIBITORS

R 285.1701 Competition open to residents; exceptions.

Rule 701. (1) Competition in the community arts and youth departments is open only to residents of the Upper Peninsula of Michigan, and the community arts and youth exhibit shall be the work of the exhibitor and shall be shown in such exhibitor's name. All such exhibits shall be owned by the community arts and youth exhibitor unless otherwise specified.

(2) A person who teaches a home craft may not make an entry in that particular craft.

(3) A community arts and youth exhibitor of flower arrangements and table settings shall not be engaged in the field of horticulture professionally.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

R 285.1702 Exhibit class qualifications.

Rule 702. (1) All entries in each class of community arts and youth exhibits shall meet the qualifications specified for each class.

(2) Entry may be made in each class listed, but a community arts and youth exhibitor may be limited as to the number of entries in each class.

(3) Specific provisions for making entries shall be printed in the annual premium list for the community arts and youth departments.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

R 285.1703 Works of art.

Rule 703. Entry of a work of art in each class by an artist may be allowed, but it shall be one not previously shown at the fair. The manager may reject an entry

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which is fragile, unsuitable in size, or inconsistent with contemporary community standards.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

R 285.1704 Judges.

Rule 704. (1) Competent judges shall be selected and their decision shall be final.

(2) In the absence of competition in a class, and if an article exhibited is inferior in quality or unworthy, the judges shall award a prize or ribbon only if the entered article merits an award.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

R 285.1705 Formal protests.

Rule 705. A formal protest by a community arts or youth exhibitor or others shall be made in writing to the manager, accompanied by an affidavit setting forth the grounds for the protest. A formal protest against a community arts and youth exhibit shall be filed not less than 24 hours before the judging and the manager shall hear such protest and make a decision before the judging. A formal protest against a placing shall be filed not more than 6 hours after the placing is made and shall be considered by the manager. Parties interested shall be duly notified and opportunity given them to submit evidence before a final decision pursuant to a procedure established by the director.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

PART 8. GAMES

R 285.1801 Games; safety; unauthorized games; fairness; games of skill; requirements; rules and price; failure to comply.

Rule 801. (1) A game shall not be operated in a manner which presents a hazard to the safety of a patron or the public in general; nor shall equipment be used which is not in sound, safe operating condition. No material shall be used in the construction of a game which is not sufficient to meet its intended use. If the Upper Peninsula state fair manager feels that there is a hazard in either the operation of a game, the equipment used, or the construction of a game, or any part thereof, such game shall be closed until corrections are made to the satisfaction of the manager.

(2) Only games of skill shall be permitted and operated on the Upper Peninsula state fairgrounds during the annual Upper Peninsula state fair. No games of chance, or games partly of skill and partly of chance, are permitted on the grounds. The following games shall be unauthorized:

(a) Alibi, count stores, buckets, controlled cat racks, 6 cats, swingers, pin stores, auctions, razzle dazzles, wheel games, grind stores, money games, or bottle tip games.

(b) Games which, either by their design or by their operation, are controlled by the operator to the extent that the outcome of such games is determined, either in whole or in part, by such control.

(c) Games in which hidden numbers are used.

(d) Games which include mechanical or physical devices which, directly or indirectly, impede, impair, or thwart the skill of the player.

(e) Draw games where a single player is permitted to make a blind selection of 1 object from a number of objects, the object selected being the prize won.

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(f) Games where prizes consisting of cigarettes, cigars, tobacco, knives, money, or a beverage, in any form, are awarded.

(3) A contractor shall guarantee that all games permitted shall be operated fairly, and free of fraud, deceit, or trickery.

(4) A contractor shall not operate the games of skill conducted under a contract which do not meet the requirements specified in Act No. 89 of the Public Acts of 1927, as amended.

(5) The games of skill operation area shall be established by the Upper Peninsula state fair management.

(6) When the games are set up, the rules of the game and the price per play shall be prominently displayed. These rules shall set forth in clear and simple language the criteria for winning, and the number of opportunities which constitute a game.

(7) A contractor understands and agrees that a game other than a game of skill may be closed by the fair manager if he determines that it is, in fact, a game of chance, or if a contractor fails to comply with these specifications, or if the fair manager determines that there is cheating or fraudulent conduct on the part of an operator. In addition, the fair manager may close any game of part skill and part chance. Listed below are requirements for carnival games of skill pursuant to section 4 of Act No. 89 of the Public Acts of 1927, as amended:

(a) Each play shall be paid for in advance and proper change made prior to each game.

(b) Prices and conditions of winning shall be posted and shall remain the same.

(c) Side bets and double or nothing plays shall not be permitted.

(d) All prizes to be awarded shall be displayed prominently in view of all players. In no case shall any merchandise be displayed in a game which is not one of the prizes possible to be won in a single play of the game.

(e) Prizes shall not be redeemable in money.

(f) The degree of skill necessary to win shall be reasonably well related to the value of the prize.

(g) Conditions for trading smaller prizes for larger prizes shall be clearly and conspicuously posted, and trading shall be at the player's option.

(h) Building or doubling of prices after a game starts is not permitted.

(i) Small and large prizes shall be clearly marked.

(j) Games may be changed or altered only with the prior approval of the fair manager.

(k) A game may be defined as a game of skill if the player determines the outcome of the game.

(l) Foul lines are not permitted.

(m) A game shall not be allowed in which the outcome depends upon the word of the operator.

(8) A game of skill which involves the size, height, depth, weight, distance of circles, plates, hoops, openings, and similar devices shall have prior approval of the fair manager and shall remain the same throughout the fair.

(9) A roving solicitor or vendor, acting for a game operator, his agent, or on his own behalf, shall not be permitted on the fairgrounds.

(10) False or misleading advertising by banner, word of mouth, or otherwise, is prohibited.

History: 1954 ACS 95, p. 46, Eff. Mar. 21, 1978.

R 285.1802 Games of skill; approval; conditions and specifications.

Rule 802. (1) A contractor shall submit a list and complete description of the games of skill he proposes to use at the fair to the fair manager not less than 45

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days before the fair opens for the fair manager's approval. The fair manager at that time may reject those games which, in his opinion, do not meet the requirements of section 4 of Act No. 89 of the Public Acts of 1927, as amended. Such games shall meet, but not be limited to, the following conditions, specifications, and games:

(2) Dart games:

(a) All darts used at the fair shall be weighted, balanced, and have no frayed, broken, or missing feathers and be sharpened to a point. Plastic darts may be used if they meet these requirements and are approved by the fair manager at the fair.

(b) In an "add-em-up" type dart game all squares shall be of the same size and not less than 1-square inch each. Not more than 4 darts shall be used.

(c) In a "break balloon" dart game, target balloons shall be fully inflated at all times.

(d) A dart suction cup shall have not less than 3/16-inch clearance on all sides if cup is stuck in the center of target.

(e) The material in all dart boards shall be of a quality which allows darts to stick readily.

(3) Ball games:

(a) All games in which balls are pitched or thrown through, or into, a target, not less than ½-inch total clearance is required; or in other words, the inside diameter of the opening in which a ball must pass through shall be not less than ½-inch larger than the outside diameter of the ball at the largest part of the ball.

(b) All balls used shall be in good condition and suitable to the particular game as determined by the fair manager or his designee.

(c) A sign which prohibits rim shots, splash shots, or similar alibis shall not be allowed on ball games.

(d) A game where a ball is thrown into a container shall use only containers with horizontally level openings and of sufficient depth to allow balls to remain in the container. No springs or other devices shall be allowed in or under the containers.

(e) Games in which targets are knocked over or off to win shall display at all times the number of targets which must be tipped over or knocked off to win.

(f) For cat racks there shall be only 1 rail and it shall be placed in front. The rail shall not extend over 1 inch from the shelf where cats are placed. The width of the shelf on which the cats are placed shall not exceed the length of cat plus 3 inches. Fur trim is not included in length of the cat. The distances between the shelf where the cats sit shall not exceed 1 inch and more than 3 separations per shelf shall not be permitted. Shelves shall be level at all times and the canvas back drop shall be not less than the length of the cat plus 3 inches from the rear edge of the shelf. The cats shall be of uniform weight and height and shall not exceed 2 pounds. All cats shall be in good, unbroken condition.

(g) Hinges on slat racks using fixed targets shall work freely to permit targets to fall over easily when hit.

(h) In milk bottle ball games, all bottles shall be free from defects and each set shall be uniform in size and weight and shall not exceed 3 pounds each. The base on which the bottles sit shall not be less than 18 inches from the ground. The front barrier shall not be higher than the base on which the bottles sit. The base shall be not less than 6 feet from the front barrier. A rim not more than ½ inch shall be permitted if operating a game "all over." No obstruction whatsoever shall be permitted around the base on which the bottles sit if operating the game "all off."

(i) For games where balls are thrown to break or chip targets, all targets shall be made of the same material. No unbreakable records or other material shall be used for a target.

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(4) Roll downs: In any game at a fair in which balls or other objects are rolled or slid on a platform of any kind, the platform shall be level laterally, unwarped, and have no obstructions of any kind between the player and the target. All slots shall be in an even row at the back of the board and be of equal width.

(5) Ring games:

(a) In a game at a fair in which rings are thrown over a target, the rings shall be round, unwarped, and the target shall be horizontally level.

(b) All rings thrown over targets shall have not less than ¼-inch total clearance and each target shall be possible to ring.

(c) All targets in the same row shall be of the same height when rings are thrown.

(d) In "hoopla" ring games, no prize may project over the target block.

(e) Grease or wax, or both, is prohibited.

(6) Shooting games:

(a) Cork shooting galleries shall use guns in good mechanical condition. No chipped or crooked corks shall be used. No targets shall be used which cork guns cannot shoot off shelf with 1 shot.

(b) Short range, long range, or machine gun shooting galleries shall operate for amusement only.

(c) Blanks shall not be used.

(d) All guns shall be chained at the muzzle end to a counter allowing only enough extension of chain so as to aim at the target and protect the public from possible injury.

(7) Hi-strikers shall be in good condition at all times. The slides or wires shall be straight and free of obstruction. Slide board shall be plumb at all times. Mallets shall be in good condition. There shall be a fence of sufficient strength, and not less than 36 inches high around strikers, to protect the public. No 1-hand strikers shall be permitted and the sign shall so state.

(8) Pitch games:

(a) At a game in which washers or discs are thrown or pitched, the target shall be horizontally level.

(b) In washer spot pitch games, boards on which spots are arranged shall be level and unwarped. Spots and tokens shall be of contrasting colors. The diameter of each spot shall be not less than ⅜ inch greater than the diameter of the token used to play the game.

(9) Hand push car: A designated starting line may be used and cars do not have to hit back stops to win.

(10) Rope ladder game: Operator shall not touch ladders or patrons. Proper padding shall be provided under the ladder for the safety of patrons.

(11) Guessing of weight and age:

(a) Operator shall not touch patrons. Scale dials shall have clear figures and be illuminated at all times so they can be read by the public.

(b) If a note pad is used for guessing age, only the operator may write his guess. Patrons shall not be required to write on the pad.

(c) No other guessing games shall be allowed.

History: 1954 ACS 95, p. 48, Eff. Mar. 21, 1978.

PART 9. HEARINGS

R 285.1901 Complaint.

Rule 901. An interested party in a contested matter shall submit in writing to the director, with copies to the manager and the Upper Peninsula state fair board, a comprehensive statement of the complaint.

History: 1954 ACS 95, p. 49, Eff. Mar. 21, 1978.

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R 285.1902 Procedure and rules.

Rule 902. Appropriate state and department procedures, rules, and regulations relating to hearings shall be followed.

History: 1954 ACS 95, p. 49, Eff. Mar. 21, 1978.

R 285.1903 Appearance.

Rule 903. An appearance shall be made either in person, by a duly authorized representative, or by counsel. If a person who has been served with a notice of hearing fails to appear at such hearing, the hearing officer may proceed with a hearing of the matter brought before it, and on the evidence presented, may make his decision.

History: 1954 ACS 95, p. 49, Eff. Mar. 21, 1978.

R 285.1904 Adjournments and continuances.

Rule 904. A hearing shall not be adjourned or continued, except upon order of the director or his agent conducting the hearing. A motion or request of adjournment or a continuance shall be in writing and state concisely the reasons why an adjournment or continuance is necessary. The motion or request shall not be considered unless it is filed with the director not less than 3 days before the date assigned for the hearing, except upon order of the board, which exception shall be granted only upon a showing that for reasons not within the control of the person making the motion or request, the motion or request could not be filed within the time limit.

History: 1954 ACS 95, p. 49, Eff. Mar. 21, 1978.

R 285.1905 Depositions.

Rule 905. A deposition shall be taken only upon written permission of the director if it is proved in writing to the director that it is impractical or impossible to otherwise obtain the evidence. A deposition shall be taken pursuant to the general court rules of this state for taking depositions in civil cases, with all parties being given an opportunity to cross-examine the witness under oath.

History: 1954 ACS 95, p. 50, Eff. Mar. 21, 1978.

R 285.1906 Answers, briefs, and arguments.

Rule 906. A person who has been served with a notice of hearing may file a written answer before the date set for hearing, or at the hearing may appear and present an oral statement on the charges contained in the notice of hearing. If written briefs or arguments are presented, a copy shall be served on the manager, who shall accept service on behalf of the director and upon opposing parties, not less than 4 days before the date set for the hearing.

History: 1954 ACS 95, p. 50, Eff. Mar. 21, 1978.

R 285.1907 Stipulations.

Rule 907. The parties to a hearing, by a stipulation in writing filed with the director, may agree upon any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing. Parties are requested to agree upon the facts when practicable.

History: 1954 ACS 95, p. 50, Eff. Mar. 21, 1978.

CONCESSIONAIRES, COMMERCIAL EXHIBITORS, AND AGRICULTURAL EXHIBITORS

R 285.3001—R 285.3042 Rescinded.

History: 1944 ACS 35, pp. 17-21; 1954 AC, pp. 1801-1808; rescinded 1954 ACS 61, p. 7, Eff. Feb. 16, 1970.

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DEPARTMENT OF LICENSING AND REGULATION

STATE BOARD OF VETERINARY EXAMINERS

PROCEDURE FOR CONDUCTING HEARINGS

(By authority of Act No. 152 of the Public Acts of 1956, as amended, being §287.451 et seq. of the Michigan Compiled Laws)

R 287.1 Procedure for conducting hearings.

Rule 1. (1) (a) Whenever the word "person" is used, it shall mean an individual, firm, partnership, co-partnership, corporation, or association.

(b) "Board" shall mean the state board of veterinary examiners.

(c) "Hearing" shall mean any contested case being heard by the board as provided by the statutes.

(2) Notification of any hearing before the state board of veterinary examiners will be by personal service or registered mail, and will state the date, time, and place the hearing is to be held and issues involved. Such notice will be mailed at least 15 days prior to said hearing.

(3) When an appearance is made at a hearing, it shall be made either in person, or by a duly authorized agent, or by counsel.

(4) The person or persons who have been served with a notice of the hearing may, at their option, file a written answer thereto prior to the date set for hearing, or, at said hearing, may appear and present an oral or written statement on the charges contained therein.

(5) If the person or persons who have been previously served with a notice of hearing fail to appear at a notice hearing, the board may proceed with a hearing of the cases brought before it and may, on the evidence presented, make its decision.

(6) At the contested hearing there shall be presented a fair and accurate statement of the information contained in the files of the board. The files and records of the board shall be available for inspection prior to or at the hearing and the whole or any part thereof may be offered at said hearing as evidence on behalf of the board.

History: 1954 ACS 17, p. 7, Eff. Feb. 14, 1959.

GENERAL RULES

(By authority conferred on the state board of veterinary examiners by section 10 of Act No. 152 of the Public Acts of 1956, as amended, being §287.460 of the Michigan Compiled Laws)

R 287.451 Purpose.

Rule 1. The purpose of these rules is to implement Act No. 152 of the Public Acts of 1956, as amended, being §287.451 et seq. of the Michigan Compiled Laws, hereinafter referred to as the act, insofar as it applies to veterinarians.

History: 1954 ACS 88, p. 53, Eff. Aug. 31, 1976.

R 287.452 Application for licensure.

Rule 2. (1) An application for licensure by written examination or by reciprocity shall be made on printed forms provided by the board, shall be sworn to by

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the applicant, and shall be accompanied by the appropriate fee. An application for licensure by examination shall be filed with the board at least 30 days before the date of an examination.

(2) An applicant shall submit the following information on the application: name in full; usual written signature; date of birth; residence address; business address; social security number; membership in professional organizations; education; a record of entire professional career; and such other information as the board may deem appropriate. The information on the application shall be concise, but comprehensive, and shall contain inclusive dates of employment, and the names and addresses of employers.

(3) The application shall not be considered until the application is complete.

(4) Application for licensure by examination or by reciprocity may be thoroughly investigated. The secretary of the board may inquire from the references, or by such other means as the board deems appropriate, as to the accuracy of the information submitted. If replies from the references set forth in the application are not received in a reasonable time, the secretary may so notify the applicant and request additional references. Information so obtained shall then be filed with the application on the permanent record, and shall remain the property of the board.

(5) If an application is denied, a notice of intent to deny shall be sent promptly to the applicant stating the reasons for the rejection and advising the applicant that the applicant has 30 days in which to submit additional evidence to substantiate the applicant's claim for consideration, or to request a hearing on the denial. If no response is received from the applicant within 30 days of the issuance of the notice, the denial shall be deemed final.

History: 1954 ACS 88, p. 53, Eff. Aug. 31, 1976.

R 287.453 Examination.

Rule 3. (1) The chairman of the board, or a duly authorized representative of the board, shall approve all applications as appropriate for examination 10 days prior to the examination.

(2) Examinations shall be held at least once a year at a convenient place, and public notice of the examination shall be given in sufficient time to allow the applicant to comply with the provisions of the act. Examination notice shall be made by publication in a newspaper of general circulation and by announcement through the Michigan veterinary medical association and the American veterinary medical association.

(3) After the chairman of the board has certified the grades on the examination, and has determined that an applicant is eligible for licensure, the applicant shall be notified and shall be issued a license as provided for in section 12 of the act.

(4) An applicant who fails the practical examination as adminstered by 1 or 2 board members may request, and may be granted, an appearance before the entire board for reexamination.

History: 1954 ACS 88, p. 53, Eff. Aug. 31, 1976.

R 287.454 Standards regulating profession in other states.

Rule 4. The administrative secretary of the board shall gather information from other states to determine whether the standards regulating the profession in other states are at least equal to those maintained in this state.

History: 1954 ACS 88, p. 54, Eff. Aug. 31, 1976.

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R 287.455 Approval of veterinary schools; adoption of standards.

Rule 5. (1) The board may approve schools of veterinary medicine if the curriculum satisfies the standards of the American veterinary medical association educational commission.

(2) The board approves and incorporates herein by reference the standards adopted by the A.V.M.A. educational commission for foreign veterinary graduates relative to curriculum of schools of veterinary medicine. These standards are available for inspection at the offices of the board in Lansing.

History: 1954 ACS 88, p. 54, Eff. Aug. 31, 1976.

R 287.456 Foreign veterinary graduates; recognition of certificates; adoption of standards.

Rule 6. (1) The board may recognize certificates issued by the American veterinary medical association educational commission for foreign veterinary graduates if the candidate can demonstrate proof of graduation, proficiency in English, knowledge of veterinary medicine, and evaluated clinical experience.

(2) The board approves and incorporates herein by reference the standards adopted by the A.V.M.A. educational commission for foreign veterinary graduates. These standards are available at the offices of the board in Lansing.

History: 1954 ACS 88, p. 54, Eff. Aug. 31, 1976.

R 287.457 Temporary permits.

Rule 7. (1) Applicants seeking a temporary permit to practice veterinary medicine under section 13(2) of the act shall be deemed to have passed an examination approved by the board upon presentation of a national board examination upon which the applicant achieved an average grade of 75%, with no portion being below 60%, using the standard 1.5 deviation.

(2) An applicant seeking a temporary permit to practice veterinary medicine under section 13(2) of the act, who is not able to comply with subrule (1), shall submit an examination which the applicant has taken for consideration by the board.

History: 1954 ACS 88, p. 54, Eff. Aug. 31, 1976.

R 287.458 Official acts of board; quorum; decisions; officers.

Rule 8. (1) For purposes of determining whether the board may perform official acts, a quorum of the board shall be a majority of the voting members of the board. Decisions of the board shall be made by a majority vote of the members present. The board may require more than a majority vote on special matters.

(2) The board may elect at its annual meeting a chairman, a vice-chairman, and a secretary. The officers shall serve for a term of 1 year or until a successor is duly elected. The respective offices shall have such functions as are prescribed by the board by rule or resolution.

History: 1954 ACS 88, p. 54, Eff. Aug. 31, 1976.

R 287.459 "Direct supervision of a veterinarian" defined.

Rule 9. The phrase "direct supervision of a veterinarian," as used in section 4(6) of the act, means direct, physical, on-premises, personal supervision by the employing veterinarian.

History: 1954 ACS 88, p. 54, Eff. Aug. 31, 1976.

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R 287.460 Rescinded.

History: 1954 ACS 88, p. 54, Eff. Aug. 31, 1976; rescinded 1954 ACS 96, p. 89, Eff. Aug. 8, 1978.

R 287.461 Veterinary facilities; sanitation requirements; inspection; report; notice; complaint.

Rule 11. (1) The determination of whether a veterinary facility is maintained in a sanitary manner shall include, without limitation, consideration of whether the following requirements have been met:

(a) The facility shall be maintained in a clean and orderly condition.

(b) Floors, walls, windows, exam tables, and all equipment and storage cabinets shall be kept clean.

(c) Some form of sterilization shall be employed on all surgical instruments, consistent with the standards of veterinary practice.

(d) Kennels in a facility, or connected with a facility, shall be kept clean. Excrement shall be promptly removed and disposed of in a proper manner. Enclosed facilities shall be properly screened and ventilated.

(2) The board or its designated agent reserves the right to inspect any facility during regular business hours. The inspection function may be delegated to a representative of the state department of public health or to a local department of health, or to a licensed veterinarian selected by the board.

(3) Upon receipt of an inspection report indicating that a veterinary facility is not being maintained in a sanitary manner, as defined by the act and these rules, the responsible veterinarian shall be notified that he has 30 days in which to correct the defects. If, after 30 days from notice thereof, the defects have not been corrected, the board may issue a complaint against the veterinarian pursuant to section 17 of the act.

History: 1954 ACS 88, p. 55, Eff. Aug. 31, 1976.

ANIMAL TECHNICIAN CERTIFICATION

(By authority conferred on the board of veterinary examiners by section 8 of Act No. 151 of the Public Acts of 1975, being §287.488 of the Michigan Compiled Laws)

R 287.481 Purpose.

Rule 1. The purpose of these rules is to implement Act No. 151 of the Public Acts of 1975, being §287.481 et seq. of the Michigan Compiled Laws, relative to the certification of animal technicians.

History: 1954 ACS 88, p. 55, Eff. July 8, 1976.

R 287.482 Application for certification; form; time for filing; fee; contents.

Rule 2. (1) Application for certification as an animal technician shall be made on printed forms provided by the board of veterinary examiners, hereinafter referred to as the board. An application for certification by written examination shall be filed with the board not less than 30 days before the date of an examination, and the application shall be sworn to and accompanied by the appropriate fee.

(2) An applicant shall submit the following information on the application: name in full, usual written signature, date of birth, residence address, business address, social security number, membership in professional organizations, education, a record of the applicant's entire professional career, and such other information as the board deems appropriate. The information furnished on the

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application shall be concise, but comprehensive, and shall contain inclusive dates as well as the names and addresses of the applicant's employers.

(3) The applicant shall also submit documents sufficient to establish proof of graduation from an approved program in animal technology or a recommendation under oath from the applicant's supervising veterinarian that the applicant has been employed as an apprentice animal technician for not less than 3 years.

(4) The application shall not be considered until the application is complete.

History: 1954 ACS 88, p. 55, Eff. July 8, 1976.

R 287.483 Investigation.

Rule 3. An application for certification by examination may be thoroughly investigated. The secretary of the board may inquire from the references, or by such other means as the board deems expedient, as to the accuracy of the information submitted. If replies from the references cited are not received within a reasonable time, the secretary may so notify the applicant, and may request additional references. Information so obtained shall then be filed with the application as a permanent record, and shall remain the property of the board.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.484 Denial of application; reconsideration.

Rule 4. If an application is denied, a notice of intent to deny shall be promptly sent to the applicant stating the reasons for the denial. The applicant may then be permitted to submit additional evidence to substantiate the claims made on the application. The board shall consider the additional evidence at a subsequent meeting, or the applicant may request a hearing on the denial. If the applicant neither submits additional information nor requests a hearing within 30 days of receipt of the notice of intent to deny, the denial shall be final.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.485 Notice of examination.

Rule 5. Notice of the examination shall be made by publication in a newspaper of general circulation and by announcement through the Michigan veterinary medical association and the American veterinary medical association.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.486 Approval of applications.

Rule 6. The chairman of the board, or a duly authorized representative of the board, shall approve all applications for examination 10 days prior to the examination.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.487 Minimum passing score; reexamination.

Rule 7. (1) An applicant applying for certification as an animal technician in this state by examination shall pass each part of the examination, both the written and the practical, with a grade of not less than 75% on each part.

(2) If an applicant fails the oral practical examination, the applicant may request and be granted an appearance before the entire board for reexamination.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.488 Certification of examination grades; issuance of certificate.

Rule 8. The chairman of the board shall certify the examination grades to the board. After the board determines that an applicant is eligible for certification, the

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applicant shall be promptly notified and issued a certificate as required by Act No. 151 of the Public Acts of 1975.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.489 Approval of animal technology programs; standards incorporated by reference.

Rule 9. (1) The board may approve schools of animal technology if the school satisfies the standards of the American veterinary medical association regarding animal technology programs.

(2) The board approves and incorporates herein by reference the standards adopted by the American veterinary medical association relative to the approval of schools of animal technology. These standards are available for inspection at the offices of the board in Lansing.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.490 Complaint against animal technician.

Rule 10. A complaint against a certified animal technician shall be sworn to and submitted in writing to the secretary of the board, and shall contain sufficient facts to enable the board to properly dispose of the matter. Complaint forms are available in the board office.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.491 Complaint review committee; procedure.

Rule 11. A sworn complaint submitted to the board shall be reviewed by the complaint review committee, which shall consist of 1 member of the board and the chief of the animal health division of the department of agriculture, who shall be an ex officio member. The committee may request an investigation of the complaint by the department of licensing and regulation. If the committee determines that the complaint does not warrant formal action, it shall recommend to the board that the complaint be closed, and the complainant and the licensee shall be notified of that decision. If the committee, with the advice and assistance of the office of the attorney general, determines that the disciplinary action is appropriate, a formal complaint shall be submitted to the board, and if the board determines that action is appropriate, a hearing shall be held in accordance with Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 88, p. 56, Eff. July 8, 1976.

R 287.492 Supervision of an animal technician.

Rule 12. The minimum degree of control by the veterinarian having actual charge of the case or animal, which will insure that the activities of the animal technician are within the scope of the orders, assignments, or prescriptions of the veterinarian, shall be sufficiently close physical proximity to the animal technician so that the supervising veterinarian is continuously available to observe and monitor the performance of the animal technician. For example, in a clinical situation, the supervising veterinarian shall be on the premises while the animal technician is performing services. In the field, the supervising veterinarian shall be on the client's premises while the animal technician is performing services.

History: 1954 ACS 88, p. 57, Eff. July 8, 1976.

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DEPARTMENT OF AGRICULTURE

MICHIGAN STATE APPLE COMMISSION

(By authority of Act No. 87 of the Public Acts of 1939, as amended, being §290.1 et seq. of the Michigan Compiled Laws)

R 290.1 Public hearings.

Rule 1. Prior to the issuing of any rule, regulation, or order, the Michigan state apple commission shall first hold a public hearing on the proposed rule, regulation, or order or any changes therein.

History: 1954 ACS 12, p. 28, Eff. Nov. 21, 1957.

R 290.2 Orders.

Rule 2. All rules, regulations, and orders of the commission shall be signed by the chairman and the secretary-manager.

History: 1954 ACS 12, p. 28, Eff. Nov. 21, 1957.

R 290.3 Seal.

Rule 3. The seal of the commission shall be circular in form and contain the following inscription, "Michigan State Apple Commission."

History: 1954 ACS 12, p. 28, Eff. Nov. 21, 1957.

R 290.4 Stamp design.

Rule 4. The design of the official apple advertising stamps issued by the commission shall be: Shape, rectangular; background, to be an outline map of Michigan; bearing the denomination of the stamp. Each denomination shall be of a different color.

History: 1954 ACS 12, p. 29, Eff. Nov. 21, 1957.

R 290.11 Assessment.

Rule 11. The assessment of 3 cents per bushel or 6 cents per hundred pounds of apples levied by section 9(b) of said act, shall be collected by the purchase from the commission, of adhesive apple advertising stamps or of combination grade and apple advertising stamps, which stamps shall be attached and cancelled by the grower.

History: 1954 ACS 12, p. 29, Eff. Nov. 21, 1957; 1954 ACS 15, p. 5, Eff. Aug. 14, 1958.

R 290.12 Evidence of payment.

Rule 12. Evidence of payment of the apple advertising assessment shall be shown by 1 of the following methods:

(a) Adhesive apple advertising stamps properly cancelled and attached to the bill of lading, shipping receipt, invoice, or other documents accompanying the load, or to individual containers.

(b) Combination grade and apple advertising stamps or adhesive apple advertising stamps properly cancelled and attached to individual containers.

(c) On retail transactions by the grower on his own premises and on retail shipments by express, evidence of payment of the assessment may be shown by attaching and cancelling, daily, the proper amount of adhesive apple advertising

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stamps to a ticket of release, furnished by the commission, which shall be certified and rendered at the end of each calendar month to Michigan state apple commission.

History: 1954 ACS 12, p. 29, Eff. Nov. 21, 1957.

R 290.13 Cancellation.

Rule 13. Said stamps attached to individual packages or to bills of lading, invoices, or other documents accompanying loads shall be cancelled by permanently writing or stamping the date thereon; except adhesive stamps of a variable denomination for which cancellation shall consist of the proper filling out of the required information on the face of the stamp and which shall be affixed to the shipping document accompanying each load of apples.

History: 1954 ACS 12, p. 29, Eff. Nov. 21, 1957; 1954 ACS 15, p. 5, Eff. Aug. 14, 1958; 1954 ACS 20, p. 10, Eff. Nov. 14, 1959.

R 290.14 General.

Rule 14. (1) With the exception of Michigan apples sold for cider, juice, or vinegar which are exempted from the provisions of this act, no Michigan apples shall be shipped or sold to any dealer until such advertising stamps have been properly cancelled and affixed or attached by the grower or grower's agent, except as provided for below.

(2) In the event that apples are purchased for the purpose of being processed into cider, juice, or vinegar and later sold as fresh fruit, the party purchasing the apples shall be liable for the proper cancellation and affixing or attaching the proper apple advertising stamps.

(3) In order that the practical application of these rules may be in accordance with certain marketing practices, apples may be delivered to a grower's agent, dealer, or processor without apple advertising stamps; provided said grower's agent, dealer, or processor has been issued a "grower's agent permit" by the commission to accept apples unaccompanied by stamps and has agreed in writing to accept the responsibility of seeing that the apple advertising assessment is paid on all apples passing through their hands and to keep accurate records on forms furnished by the commission. These records are to be retained for a period of 2 years.

(4) All such loads of apples shall be accompanied by a shipping document bearing the date, the grower's name and address, and the name and address of the grower's agent, dealer, or processor to whom the apples are being shipped.

(5) The commission is to furnish the foods and standards division, Michigan department of agriculture, with the names of all growers' agents, dealers, or processors who are authorized to accept delivery of apples not accompanied by stamps. Each inspector of the foods and standards division is to be furnished with a list of growers' agents, dealers, or processors. Any load of apples not accompanied by properly cancelled apple advertising stamps shall not be considered as being in violation, provided that the load is being delivered to a grower's agent, dealer, or processor who has been issued "grower's agent permit" by the commission and that the accompanying shipping document is marked with the grower's agent's name and address.

History: 1954 ACS 12, p. 29, Eff. Nov. 21, 1957; 1954 ACS 20, p. 10, Eff. Nov. 14, 1959.

R 290.15 Stamp purchases.

Rule 15. (1) All apple advertising stamps shall be purchased from the commission or its authorized agents.

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(2) The commission or its agents shall issue an official receipt to the purchaser showing the amount of money paid, the number of stamps delivered, and their denominations. Triplicate copies of the receipt shall be made, the original being delivered to the purchaser; the second copy must be sent by the agent to the commission, together with the funds collected quarterly; and the third copy shall be retained in the original receipt book.

(3) Upon request of the grower or grower's agent, the commission may, at its discretion, enter into an agreement whereby the commission will issue to a grower or grower's agent a permit and 1 or more books of 20 stamps each carrying provisions on the face of the stamp for the shipper's name and address, the number of bushel or weight of apples, the rate of assessment, and the value of the stamp. These stamps shall be filled out in triplicate, the original being affixed to the shipping document; 1 copy to be returned to the commission, together with payment of the value of the stamp; and 1 copy to be retained for the grower or grower's agent's records. Payment for variable denomination stamps must be made at the end of each month for stamps used during that month.

History: 1954 ACS 12, p. 29, Eff. Nov. 21, 1957; 1954 ACS 20, p. 10, Eff. Nov. 14, 1959.

R 290.16 Nonparticipating growers.

Rule 16. (1) Such growers as desire can become nonparticipating growers and claim exemption from the provisions of this act. To claim such exemption, the nonparticipating grower must notify the commission in writing on or before the first day of July of each year of his intention to claim exemption from the apple advertising assessment for the coming crop year. For this purpose, the crop year shall be considered to run from July 1 of 1 year to June 30 of the following year. When so notifying the commission, the nonparticipating grower shall give the commission his estimate of the size of the apple crop upon which he is claiming exemption. The commission shall then issue the nonparticipating grower an exemption certificate bearing an exemption certificate number.

(2) On apples sold as fresh fruit, the nonparticipating grower shall attach properly cancelled apple advertising stamps in the same manner as a participating grower. The nonparticipating grower shall then file for the refund of the apple advertising assessment paid by him upon a form furnished him by the commission at his request. In filing for a refund, the form must be accompanied by the grower's copy of the commission's official receipt used for stamp sales. These official receipts shall bear the same name as that appearing on the nonparticipating grower's exemption certificate.

(3) Where a nonparticipating grower sells apples through a grower's agent and the apple advertising stamps are purchased in the name of the grower's agent rather than the nonparticipating grower, the nonparticipating grower may, when filing for a refund, substitute a statement from the grower's agent certifying that the grower's agent purchased a specified quantity of advertising stamps for use in shipping the nonparticipating grower's apples.

(4) On the last day of each month, the commission shall pay all requests for the refund of the apple advertising assessments received by it from nonparticipating growers during the month. A nonparticipating grower need not file monthly for the refund of his apple advertising assessment. He may elect to file as many times as he desires during each crop year, provided he does not file more than 1 request during each month. No refunds shall be paid to nonparticipating growers filing for a refund later than June 30 of the crop year for which he has claimed exemption.

(5) On apples sold to processors, the nonparticipating grower need not attach apple advertising stamps if the processor to whom he is selling has been

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authorized by the commission to withhold the amount of the apple advertising assessment from payments made to participating growers. In this event, the nonparticipating grower shall notify the processor in writing of the fact that he is a nonparticipating grower. This written notice shall contain the number of the nonparticipating grower's exemption certificate.

(6) Dealers or processors desiring to be authorized to accept apples not accompanied by apple advertising stamps shall request, in writing, to be authorized. In making this request, the dealer or processor must state that he agrees to keep such records as required by the commission.

History: 1954 ACS 12, p. 30, Eff. Nov. 21, 1957.

R 290.17 Grower's records.

Rule 17. Every grower shall keep a complete and accurate record of the number of bushels or weight of apples handled, shipped, or processed by or for him during each calendar year. These records shall be retained by him for a period of 2 years.

History: 1954 ACS 12, p. 30, Eff. Nov. 21, 1957.

R 290.18 Grower's agent, dealer, and processor; records.

Rule 18. (1) Every grower's agent, dealer, and processor buying apples produced in Michigan shall keep a complete record of the number of bushes or weight of apples purchased by him. The details of this record are to be reported monthly to the commission on a form furnished by the commission. These forms are to be furnished the grower's agent, dealer, or processor at his request. Such records are to be maintained by the grower's agent, dealer, or processor for a period of 2 years.

(2) Recognizing the confidential nature of these reports, they shall not be available to any person or persons other than members and employees of the Michigan state apple commission and state and county law enforcement officers and all employees and agents of the department of agriculture, except as necessary for the prosecution of violations of the Baldwin apple act.

History: 1954 ACS 12, p. 30, Eff. Nov. 21, 1957.

AGRICULTURAL MARKETING AND BARGAINING BOARD

ACCREDITATION AND REGULATION OF ASSOCIATIONS

(By authority conferred on the agricultural marketing and bargaining board by section 3 of Act No. 344 of the Public Acts of 1972, being §290.703 of the Michigan Compiled Laws)

R 290.101 Definition of perishable fruits and vegetables.

Rule 1. Perishable fruits and vegetables for which an association may seek accreditation are agricultural commodities that are readily susceptible to deterioration and decay or which may be protected by refrigeration, icing, ventilation, or protected from the cold, and that could be produced in commercial quantities in this state. These include, but are not limited to, apples, cherries, grapes, peaches, apricots, pears, plums, nectarines, strawberries, blueberries, raspberries, tomatoes, cucumbers, asparagus, snap beans, lima beans, cabbage, peas, cantaloupes, watermelons, carrots, cauliflower, celery, sweet corn, potatoes, lettuce, onions, peppers, squash, pumpkin, sweet potatoes, broccoli, brussels sprouts, eggplant, spinach, beets, rhubarb, watercress, parsnips, and turnips.

History: 1954 ACS 77, p. 12, Eff. Oct. 27, 1973.

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R 290.102 Marketing period of agricultural commodities.

Rule 2. The determination of the marketing period shall be stated in the agricultural marketing and bargaining board's preliminary declaration of accreditation of an association and, although it may subsequently be changed by the board in view of evidence that an alternative period would be more appropriate, it will generally be determined as follows:

(a) The first day of the marketing period of an agricultural commodity that is delivered for sale shall be the earliest date in the previous 5 years when the commodity was first delivered by a producer in the bargaining unit to a handler. The last day of the period shall be the latest date of the preceding 5 years when the last delivery of the commodity by a producer in the bargaining unit was made.

(b) The first day of the marketing period of an agricultural commodity, produced and marketed under contract for future delivery of substantially all of a crop or periodic production of the commodity, shall be a date 150 days prior to the earliest date in the preceding 5 years when the commodity was first delivered by a producer in the bargaining unit to a handler. The last day of the period shall be the latest date in the preceding 5 years when the last delivery of the commodity by a producer in the bargaining unit was made.

History: 1954 ACS 77, p. 12, Eff. Oct. 27, 1973.

R 290.103 Determination of minimum value at first point of sale.

Rule 3. The minimum value at first point of sale for an agricultural commodity that a person must have produced to be a producer of a commodity and included in a bargaining unit for the commodity shall be $1,250.00. However, the agricultural marketing and bargaining board may determine that the minimum value at first point of sale should be larger or smaller based upon the evidence at the board's hearing to determine whether a proposed bargaining unit for the commodity is appropriate.

History: 1954 ACS 77, p. 12, Eff. Oct. 27, 1973.

R 290.104 Application fee.

Rule 4. An application fee for accreditation of an association is $175.00 for the administrative cost plus 25 cents for mailing and notification costs for each person who has previously produced sufficient quantity of the agricultural commodity to meet or exceed the minimum value at first point of sale as established by the board. Payment of the application fee, including the mailing and notification costs, must accompany all requests for accreditation.

History: 1954 ACS 77, p. 13, Eff. Oct. 27, 1973.

R 290.105 Annual reports of accredited associations.

Rule 5. Each accredited association shall file an annual report with the agricultural marketing and bargaining board 60 days prior to the stated marketing period of the year of accreditation and each year thereafter. The report shall include:

(a) The names and addresses of members of the marketing and bargaining committee of the association and evidence that they meet the criteria established for eligibility for such committees.

(b) An accounting of expenses of the association in providing marketing services.

(c) A copy of the most recent annual financial statement.

(d) Fees to members and nonmembers.

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(e) Any changes in bylaws since the previous annual report.

(f) Verification that all conditions specified under section 7 of Act No. 344 of the Public Acts of 1972 are met.

History: 1954 ACS 77, p. 13, Eff. Oct. 27, 1973.

R 290.106 Marketing service fees.

Rule 6. Marketing service fees for marketing and bargaining services provided producers in the bargaining unit shall be based solely upon the cost incurred by the association in providing the services. The fees shall not exceed 3% of the gross value of the commodity at time of sale and shall not include costs of services to members that do not benefit nonmembers.

History: 1954 ACS 77, p. 13, Eff. Oct. 27, 1973.

FAIRS DIVISION

R 291.1—R 291.138 Rescinded.

History: 1954 ACS 22, pp. 56-69, Eff. May 13, 1960; 1954 ACS 24, p. 6, Eff. Nov. 12, 1960; 1954 ACS 30, pp. 10, 11, Eff. May 15, 1962; rescinded 1954 ACS 61, p. 6, Eff. Feb. 16, 1970.

R 291.151—R 291.157 Rescinded.

History: 1954 ACS 39, pp. 5-7, Eff. Aug. 14, 1964; rescinded 1954 ACS 61, p. 6, Eff. Feb. 16, 1970.

UNLAWFUL ACTS ON STATE FAIR PROPERTIES

(By authority conferred on the commission of agriculture by section 1 of Act No. 80 of the Public Acts of 1905 and sections 9, 185, and 186 of Act No. 380 of the Public Acts of 1965, being §§19.141, 16.109, 16.285, and 16.286 of the Michigan Compiled Laws)

R 291.201 Definitions.

Rule 1. (1) "Commission" means the commission of agriculture.

(2) "Director" means the director of the department of agriculture.

(3) "Fairgrounds" means all lands and buildings under the jurisdiction of the department of agriculture—state fairs division.

(4) "General manager" means the general manager of the Michigan state fair or the secretary-manager of the Upper Peninsula fair board.

(5) "Guards" means state fair guards, police and watchmen.

(6) "Vehicle" means a device in, upon or by which any person or property is or may be transported or drawn, excepting devices moved by human power.

History: 1954 ACS 60, p. 10, Eff. Nov. 14, 1969.

R 291.202 Trespass and use without authorization.

Rule 2. It is unlawful for any person to trespass upon, to use, or to occupy any portion of a fairgrounds or any of the buildings thereof without the authorization of the commission, director or general manager.

History: 1954 ACS 60, p. 10, Eff. Nov. 14, 1969.

R 291.203 Disturbances of lawful assemblies.

Rule 3. It is unlawful for any person to make or excite any disturbance or contention in any building or other part of a fairgrounds where citizens are peaceably and lawfully assembled.

History: 1954 ACS 60, p. 10, Eff. Nov. 14, 1969.

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R 291.204 Disorderly persons.

Rule 4. It is unlawful for any person to be a disorderly person on a fairgrounds, including the following: any person who engages in an illegal occupation or business; any person who shall be drunk or intoxicated or engaged in any indecent or obscene conduct; any vagrant; any person found begging; any person who shall knowingly loiter in or about any place where an illegal occupation or business is being conducted; any person who shall be found jostling or roughly crowding people unnecessarily, shall be deemed a disorderly person.

History: 1954 ACS 60, p. 10, Eff. Nov. 14, 1969.

R 291.205 Resisting officers in discharge of duties.

Rule 5. It is unlawful for any person on a fairgrounds to obstruct, resist, oppose, assault, beat, or wound any guard or any other person or persons authorized by law to maintain and preserve the peace, in their lawful acts, attempts, and efforts to maintain, preserve, and keep the peace.

History: 1954 ACS 60, p. 10, Eff. Nov. 14, 1969.

R 291.206 Sale or possession of knives with mechanical opening devices.

Rule 6. It is unlawful for any person on a fairgrounds to sell or offer for sale or to have in his possession any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle, or other mechanical contrivance.

History: 1954 ACS 60, p. 10, Eff. Nov. 14, 1969.

R 291.207 Possession by minors of cutting or stabbing instruments.

Rule 7. It shall be unlawful for any person on a fairgrounds under the age of 21 years to be in possession of any knife, dart, or instrument of any description that could be used for cutting or stabbing, provided that this section shall not apply to any such person under 21 years of age being in possession of any such knife when it is used or carried in good faith as a tool of honest work, trade, business, sport, or recreation or when used or carried in good faith as equipment related to and required for any legitimate sport, recreation or youth character building program (such as boy scouts or girl scouts) when actively engaged therein or actively engaged in going to or returning from such honest work, trade, business, sport, recreation, or youth character building program.

History: 1954 ACS 60, p. 10, Eff. Nov. 14, 1969.

R 291.208 Possession of firearms or other dangerous weapons.

Rule 8. It is unlawful for any person, except authorized peace officers and other persons authorized by law, to enter upon a fairgrounds and have in his possession any firearm, loaded or unloaded, or any other dangerous weapon, concealed or otherwise. A violation of this rule may result in the immediate confiscation of such firearm or other dangerous weapon by the Michigan state police, a state fair guard, or other authorized officer.

History: 1954 ACS 60, p. 11, Eff. Nov. 14, 1969.

R 291.209 Injury or destruction of property.

Rule 9. It is unlawful for any person to willfully injure or destroy any public property, real or personal, or personal property of any exhibitor, concessionaire, lessee, patron, or visitor on the fairgrounds.

History: 1954 ACS 60, p. 11, Eff. Nov. 14, 1969.

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R 291.210 Control of vehicles.

Rule 10. It is unlawful for any person to drive, tow, or place any vehicle on a fairgrounds, or to park, load, or unload the same, except as authorized by the commission, director or the general manager. The maximum speed for any vehicle on the fairgrounds shall be no greater than that which is safe under the existing conditions, but in any event shall be no more than 25 miles per hour.

History: 1954 ACS 60, p. 11, Eff. Nov. 14, 1969.

R 291.211 Littering.

Rule 11. It is unlawful for any person knowingly, without the consent of the commission, director or the general manager, to dump, deposit, place, throw, or leave, or cause or permit the dumping, depositing, placing, throwing, or leaving of litter on a fairgrounds. "Litter" means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris, or other foreign substances of every kind and description.

History: 1954 ACS 60, p. 11, Eff. Nov. 14, 1969.

R 291.220 Penalty.

Rule 20. Any person who openly and willfully refuses to conform to any of these rules, under the provisions of section 2 of Act No. 80 of the Public Acts of 1905, being §19.142 of the Michigan Compiled Laws, shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined not more than $50.00 or by imprisonment in the county jail of the county where such offense is committed for a period of not less than 10 days nor more than 60 days, or both such fine and imprisonment, in the discretion of the court. The general manager, or the officer in charge of the Michigan state police state fair unit or of the Detroit police, or of the guards, may order the immediate expulsion from a fairgrounds of any person who may refuse to conform to these rules without refund of any funds paid to the commission and without liability for damages on the part of the state of Michigan, its agents, officers, and employees, the commission or the Michigan state police, Detroit police, the guards or police officers involved.

History: 1954 ACS 60, p. 11, Eff. Nov. 14, 1969.

REGULATION NO. 851. MICHIGAN STATE FAIR

(By authority conferred on the commission of agriculture by section 7 of Act No. 224 of the Public Acts of 1962, sections 2 and 4 of Act No. 197 of the Public Acts of 1952, as amended, and sections 7, 9 and 185 of Act No. 380 of the Public Acts of 1965, being §§291.27, 24.102, 24.104, 16.107, 16.109, and 16.285 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 291.301 Definitions; fair and its administration.

Rule 1. (1) "Authority" means the Michigan state fair authority.

(2) "Commission" means the commission of agriculture.

(3) "Director" means the director of agriculture.

(4) "Fair" means the annual fair staged at Detroit by the agriculture commission, with the advice of the authority, and consisting of a competitive and educational exhibit of agricultural commodities, livestock and poultry and manufactured products for which awards and premiums may be paid, industrial, commercial and recreational pursuits and other related activities.

(5) "General manager" means the general manager of the fair.

History: 1954 ACS 61, p. 6, Eff. Feb. 16, 1970.

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R 291.302 Definitions; concessions and exhibits.

Rule 2. (1) "Concession stand" means a stand which sells and immediately delivers food, beverages, specialty items, balloons, art work, novelties, or other like items to fair patrons.

(2) "Food concession" means a place or stand which sells or serves food or beverages, or both, and includes the following:

(a) "Restaurant" means a place serving plate lunches, dinners, or any other meal consisting of 2 or more foods.

(b) "Grabstand" means a place serving hamburger sandwiches, hot dogs, or other specialty food, soft drinks, and coffee.

(3) "Exhibit" means an article, item, livestock, or poultry entered for public display at the fair.

History: 1954 ACS 61, p. 6, Eff. Feb. 16, 1970.

R 291.303 Definitions; exhibitors.

Rule 3. (1) "Agricultural exhibitor" means a person who enters an exhibit in the agricultural and livestock section of the fair.

(2) "Commercial exhibitor" means a holder of a commercial exhibit license, his agent, or designated representative.

(3) "Community arts exhibitor" means a person who enters an exhibit in the community arts section of the fair.

(4) "Educational exhibitor" means an educational, charitable, or nonprofit corporation exhibitor granted a license by the fair.

History: 1954 ACS 61, p. 6, Eff. Feb. 16, 1970.

R 291.304 Definitions; licenses.

Rule 4. Licenses are classified as follows:

(a) "Building or grounds license" which means an agreement, other than a lease, for use of any part of the buildings or fairgrounds when the fair is not in operation.

(b) "Commercial exhibit license" which means a permit to operate a stand, exhibit, or building, the main purposes of which are to exhibit commercial products, to solicit prospective buyers, or to make direct sales at the fair.

(c) "Concession license" which means a permit to operate a concession stand for the purpose of making direct sales to patrons of the fair.

History: 1954 ACS 61, p. 6, Eff. Feb. 16, 1970.

R 291.305 Definitions; sections of fair.

Rule 5. (1) "Agricultural exhibits section" means the administrative unit of the fair which conducts the business of arranging for the entry and display of agricultural exhibits, with or without premium awards.

(2) "Community arts section" means the administrative unit of the fair which conducts the business of arranging for the entry and display of community arts exhibits, with or without premium awards.

(3) "Space utilization section" means the administrative unit of the fair which conducts the business of licensing concessionaires, commercial exhibitors, and building and grounds licensees and lessees.

History: 1954 ACS 61, p. 6, Eff. Feb. 16, 1970.

R 291.309 Rescission.

Rule 9. The following rules are rescinded:

(a) Rules of the state fair board of managers governing concessionaires, commercial exhibitors and agricultural exhibitors, being R 285.3001 to R 285.3042

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of the Michigan Administrative Code and appearing on pages 1801 to 1808 of the 1954 volume of the Code.

(b) Rules of the Michigan state fair commission, as amended, being R 291.1 to R 291.138 of the Michigan Administrative Code and appearing on pages 1423 to 1439 of the 1960 Annual Supplement to the Code and page 2578 of the 1962 Annual Supplement to the Code.

(c) Rules of the state fair authority, being R 291.151 to R 291.157 of the Michigan Administrative Code and appearing on pages 3150 to 3152 of the 1964-65 Annual Supplements to the Code.

(d) Rules of the state fair authority entitled "Exhibitors and Concessionaires and Leasing of Buildings and Grounds," also being R 291.1 to R 291.138 of the Michigan Administrative Code and appearing on pages 3620 to 3636 of the 1966 Annual Supplement to the Code.

History: 1954 ACS 61, p. 7, Eff. Feb. 16, 1970.

BUSINESS PROCEDURES

R 291.311 Scope of rules; business transactions.

Rule 11. (1) The rules in Part 1, General Provisions, apply to operation of the fairgrounds both during the fair and at other times.

(2) Business transactions of the fair shall be conducted according to established practices and procedures of the state of Michigan subject to such special procedures as may be established by resolution of the commission.

History: 1954 ACS 61, p. 7, Eff. Feb. 16, 1970.

R 291.312 Procurement of services.

Rule 12. (1) The procedure hereinafter described in this rule governs procurement of services.

(2) Letters of invitation to bid for contractual services shall be sent to at least 3 firms performing the particular service needed. A letter shall also be sent to a firm or individual which inquires about the requirements of any contractual service.

(3) The proposals or bids of the various contractors shall be referred to the appropriate section of the fair for consideration and recommendation to the general manager.

(4) The general manager, with the advice of the authority, shall select the bid he deems most appropriate, taking into consideration the amount bid, the quality of performance of previous work and the reliability of the bidder and shall reserve the right to reject any or all bids.

(5) The general manager shall refer the selection of bids or proposals involving long term commitments and capital expenditures to the commission for approval, citing the reasons for the selection made.

(6) After the commission approves the recommended bid or proposal, the general manager shall prepare a contract. Before signing of the contract, it shall be submitted to the office of the attorney general for approval of its legal form. The director shall sign the contracts in the name of the Michigan commission of agriculture. Copies of the contracts shall be forwarded to the appropriate state agencies in conformance with their requirements.

(7) Contractual arrangements for seasonal personal services shall be negotiated by the general manager and presented to the director for his approval. Such contracts shall conform to the regulations of the Michigan civil service commission for the hiring of personnel. Permanent personnel shall be hired in conformance with the provisions and regulations of the civil service commission.

History: 1954 ACS 61, p. 7, Eff. Feb. 16, 1970.

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R 291.313 Concession licenses.

Rule 13. (1) The procedure hereinafter described in this rule governs the issuing of concession licenses.

(2) A person seeking concession space shall fill out an application form issued by the space utilization section. An affidavit of ownership shall be signed by an applicant and attached to the application.

(3) Concessionaires with established satisfactory performance records at the fair will be granted licenses before licenses are issued to new concessionaires. Under the supervision of the general manager, the space utilization section supervisor shall determine the eligibility and desirability of the new concession requests. The general manager shall recommend to the commission space rental rates for all concessionaires, based on the amount of space requested, type of concession, and location, before issuing a concession license.

(4) Applications and concession licenses received by the space utilization section shall be submitted together with its recommendations to the general manager and then, upon the advice of the authority, may be submitted to the director for approval.

(5) An approved new applicant shall be notified in writing and requested to appear at the Michigan state fairgrounds to view and agree upon his location, and to sign the concession license.

(6) At the time of the signing of the concession license, the concessionaire shall pay 50% of the space rental, and he shall pay the remaining 50% before the opening day of the fair.

(7) A concessionaire shall abide by the provisions of the concession license forms, and by the rules and regulations of the department of agriculture, fairs divison.

(8) This procedure shall be followed in all cases, but authorization to waive it, upon the advice of the authority, may be granted by the director to cover the period immediately before the opening of the fair. All licenses shall be signed by the general manager.

History: 1954 ACS 61, p. 7, Eff. Feb. 16, 1970.

R 291.314 Commercial exhibitor licenses.

Rule 14. (1) The procedure hereinafter described in this rule governs the issuing of commercial and industrial exhibit licenses.

(2) A person seeking exhibit space shall fill out an application issued by the Michigan state fair space utilization section.

(3) An application and commercial exhibitor license received by the space utilization section shall be submitted, together with its recommendations, to the general manager, and upon the advice of the authority, then may be submitted to the director for approval.

(4) An exhibitor license given final approval shall then be signed and executed by the general manager.

(5) An approved exhibitor applicant shall then be notified in writing. If the license requires the signatures of corporate officers, other than the individuals supervising the exhibit, such transaction may be carried out by mail. At the time of signing of the license, the exhibitor shall agree to the location of his exhibit space.

(6) At the time of signing of the license, the exhibitor shall pay the sums designated by the space utilization section supervisor, but in no case less than 50% of the license. The balance shall be paid before the opening day of the fair.

(7) An exhibitor shall abide by the provisions of the exhibit space license forms, and by the rules and regulations of the department of agriculture, fairs division.

History: 1954 ACS 61, p. 8, Eff. Feb. 16, 1970.

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R 291.315 Rejection or conditional acceptance of applications.

Rule 15. The general manager reserves the right to reject, or accept conditionally, an application for a license, concession, or lease.

History: 1954 ACS 61, p. 8, Eff. Feb. 16, 1970.

R 291.316 Space allocation.

Rule 16. (1) The procedures hereinafter described in this rule govern the allocation of space.

(2) The allocation, numbers, and location of commercial, concession and free exhibitor spaces shall be determined by the space utilization section supervisor, with approval of the general manager.

History: 1954 ACS 61, p. 8, Eff. Feb. 16, 1970.

R 291.317 Interpretations; disputes; documentary provisions.

Rule 17. (1) The commission reserves the right to interpret these rules and to settle and determine questions and disputes in regard thereto or otherwise arising out of, connected with, or incident to the operation of business.

(2) The provisions printed in the premium books, the exhibitor's license, the concession license, and the building or grounds license shall be followed in the operation of, and the conduct of business at, the fair.

History: 1954 ACS 61, p. 8, Eff. Feb. 16, 1970.

R 291.318 Inspection of premises.

Rule 18. The fair management and authorized agents for governmental agencies may, at any time, enter upon and inspect any portion of the licensed premises to enforce compliance with applicable statutes, ordinances, and rules.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.319 State registration and hiring of minors.

Rule 19. (1) Michigan state law requires that businesses operating in Michigan be registered in accordance with the assumed or fictitious name act, and further that corporations be registered with the state treasury department and department of commerce.

(2) Michigan department of labor rules relative to the hiring of minors shall be strictly enforced. A minor shall obtain a Michigan department of labor approval number, and a working permit from his local school attendance department. A licensee, concessionaire, or lessee shall obtain other details relative to the hiring of minors from the office of the space utilization section. Failure to meet these requirements are grounds for a cancellation of a license or a lease.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.321 Advertising.

Rule 21. A licensee, or any other person, is not allowed to place any advertising matter upon a building, tree, or any other place on the grounds, nor permitted to distribute advertising matter or literature outside the place assigned by the terms of the license or lease.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.322 Destroyed and unclean premises.

Rule 22. If the premises occupied by a licensee, concessionaire, or lessee are destroyed in any degree, or left in an unclean condition as a result of the use of the

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premises by the licensee, concessionaire, or lessee, the general manager will repair or clean the premises and charge the licensee, concessionaire, or lessee the cost of such labor and materials.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.323 Gambling games.

Rule 23. Games of skill, games of chance, and games partially of skill and partially of chance, used for gaming, are unlawful and will not be permitted on the fairgrounds by the general manager.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.324 Intoxicating beverages.

Rule 24. Liquor or other intoxicating beverages shall not be permitted on the fairgrounds.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

PART 2. LICENSED EXHIBITORS AND CONCESSIONAIRES AT FAIR

R 291.331 Access before fair.

Rule 31. An exhibitor or concessionaire will be granted access to the fairgrounds and exhibits buildings from 8:30 a.m. to 5:00 p.m. daily, except Saturdays and Sundays, for 10 working days before the opening day of the fair for the purpose of preparing his exhibits or concessions. A commercial exhibitor will be granted access to commercial exhibit buildings 2 days before the opening day of the fair from 8:30 a.m. to 5:00 p.m. Special written permission to set up earlier shall be obtained from the general manager.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.332 Cancellation of space allotments and licenses.

Rule 32. (1) A space allotment and license may be cancelled if an exhibitor or concessionaire fails to occupy the space allotted to him with the exhibit or concession specified on his license before the opening of the fair or for violation of any state law, city ordinance, or these rules.

(2) An exhibitor or concessionaire may cancel the space allotted to him for the fair by advising the general manager in writing on or before July 15 of the year in which he has a license agreement.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.333 Relocation of assigned space.

Rule 33. The general manager reserves the right to require an exhibitor or concessionaire to locate at, or move his exhibit or concession to, some other site if it is for the best interest of the fair. If the fair cannot find a suitable alternate site, the exhibitor or concessionaire is entitled to a pro rata refund of space rent paid.

History: 1954 ACS 61, p. 9, Eff. Feb. 16, 1970.

R 291.334 Labor unions.

Rule 34. The general manager may cancel a license in case of labor union difficulties involving an exhibitor or concessionaire which may lead to or result in a strike or picketing of the fairgrounds. An exhibitor or concessionaire whose license is cancelled is entitled to a pro rata refund of unearned rental for the balance of the period provided for in his license. In such a case, no liability for damages is chargeable to the state of Michigan, its officers, agents, and employees.

History: 1954 ACS 61, p. 10, Eff. Feb. 16, 1970.

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R 291.335 Rentals and charges.

Rule 35. (1) Space rentals are payable by an exhibitor or concessionaire by the dates specified on the license. Space rentals not paid before August 1 shall be paid before the opening day of the fair, and shall be paid by cash, money order, or certified or cashier's check.

(2) If rental or other charges are unpaid at the close of the fair, the state of Michigan, through the commission, shall have a possessory lien on any of the exhibitor's or concessionaire's property located on the fairgrounds to satisfy liabilities of the debtor to the fair or to the state of Michigan. The lien may be perfected by sale in like manner as sales on execution are conducted in this state.

History: 1954 ACS 61, p. 10, Eff. Feb. 16, 1970.

R 291.336 Construction of exhibits and stands.

Rule 36. (1) Exhibits in a building shall be constructed so as not to obstruct the public's view of an adjacent exhibit.

(2) An exhibitor's displays and advertising which form the back wall of his exhibit shall not exceed 8 feet in height, except when he has obtained written permission from the fair management to do so.

(3) An exhibitor or concessionaire shall not mark, paint, drill, dig, or in any manner deface the licensed premises, except by permission of the general manager, and at expiration of the fair shall surrender the licensed premises in as good condition as when occupied, reasonable wear and tear excepted.

History: 1954 ACS 61, p. 10, Eff. Feb. 16, 1970.

R 291.337 Signs and advertising.

Rule 37. (1) An exhibitor or concessionaire shall not place a sign or advertising which overhangs aisles in a building.

(2) An exhibitor or concessionaire shall post on his licensed premises only such signs as the general manager permits.

(3) A concession permit shall be posted on the concession stand before the concessionaire may start to operate.

History: 1954 ACS 61, p. 10, Eff. Feb. 16, 1970.

R 291.338 Special authorizations.

Rule 38. Reduced admission tickets and authorizations for set-up and electrical hookups shall be granted only after an exhibitor or concessionaire applies in person to the space utilization section and presents his copy of contracts or receipts which denote full payment.

History: 1954 ACS 61, p. 10, Eff. Feb. 16, 1970.

R 291.339 Electrical services.

Rule 39. The fair shall furnish electrical power only to the point of outlet. Special and additional connections for the operation of spotlights, lamps, motors, signs, and other equipment shall be furnished by the exhibitor or concessionaire. Such requirements shall be requested on the application furnished by the fair. A competent electrician shall be designated by the fair, and will be in attendance upon the grounds before, during, and after the fair, with whom the exhibitor or concessionaire may on his own responsibility make arrangements for necessary expert service. Arrangement for payment for these services shall be made between the licensed contractor and the exhibitor or concessionaire before the fair.

History: 1954 ACS 61, p. 10, Eff. Feb. 16, 1970.

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R 291.340 Hours for exhibits, concessions, and buildings.

Rule 40. An exhibit or concession shall be open to the public and in charge of a competent attendant from 10:00 a.m. to 10:00 p.m. on each day of the fair. Exhibit buildings will be open to exhibitors 2 hours before scheduled opening time, and exhibitors shall personally vacate the building within 1 hour after closing.

History: 1954 ACS 61, p. 10, Eff. Feb. 16, 1970.

R 291.341 Supervision and police and fire protection.

Rule 41. (1) Supervision by building superintendents or guards shall be provided for exhibit buildings 2 days before the fair, during the fair, and until 5:00 p.m. the day after the fair.

(2) The commission shall provide exhibitors and concessionaires with normal police and fire protection during the fair.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.342 Nonliability for loss or damage.

Rule 42. The commission will use diligence to protect licensed exhibitor and concessionaire property after its arrival on the fairgrounds. However, the state of Michigan, its officers, agents, and employees are not liable for loss, injury, or damage to an exhibitor or concessionaire caused by fire, accident, condition of structure, or negligence of another exhibitor or concessionaire, or for any other reason whatever.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.343 Risks assumed.

Rule 43. (1) An exhibitor or concessionaire shall assume all risks ensuing from exhibiting and merchandising while at the fair.

(2) An exhibitor or concessionaire shall give special attention to the protection of portable materials during the set-up period before the fair and during the tear-down period immediately after the fair.

(3) A shipment of materials unaccompanied by its owner shall be consigned entirely at the owner's risk. A shipment, if made, shall be addressed to the exhibitor or concessionaire in care of the space utilization supervisor, Michigan State Fairgrounds, Detroit, Michigan 48203, and shall be clearly marked with the exhibit building and booth number, or concessionaire space number. A shipment will be accepted upon delivery at the fairgrounds if properly marked, and if cartage and other charges have been prepaid.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.344 Insurance; kinds and amounts.

Rule 44. An exhibitor or concessionaire is responsible for providing his own insurance protection against property damage and public liability, and workmen's compensation as required by Michigan statutes in accordance with his license agreement.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.345 Insurance certificates.

Rule 45. Property of an exhibitor or concessionaire, who is required, under R 291.344 to carry insurance, shall not be admitted on the Michigan state fairgrounds unless the exhibitor or concessionaire has presented to the space utilization section 10 days before the opening of the fair a certificate of his public

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liability and property damage insurance properly signed and dated by the insurance carrier. This provision also applies to workmen's compensation insurance in accordance with Michigan statutes. If the exhibitor or concessionaire is a self-insurer under the Michigan workmen's compensation act, authorization for such self-insurance shall be presented to the space utilization section.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.346 Fire prevention ordinances.

Rule 46. An exhibitor or concessionaire shall obey and conform to the fire prevention ordinances of the city of Detroit which pertain to exhibits and concessions. Copies of these ordinances shall be available in the space utilization section at the administration building. The licensee shall agree to obey immediately any order or regulation by either the fire marshal or the general manager regarding fire protection and fire hazards.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.347 Reduced rate admission tickets.

Rule 47. An exhibitor or concessionaire is not entitled to any free admissions. He may obtain reduced rate admission tickets, at a rate prescribed by the commission. A refund shall not be made for unused tickets.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.351 Parking area and permits.

Rule 51. A parking area shall be established for commercial and concession licensees. Parking permits may be purchased by licensees at the prevailing rate established by the commission. A refund shall not be made for permits purchased. A permit shall grant the licensee 1 general admission for the fair.

History: 1954 ACS 61, p. 11, Eff. Feb. 16, 1970.

R 291.352 Vehicles.

Rule 52. (1) On the opening day of the fair, and at all times thereafter, exhibitor and concessionaire vehicles shall display a commercial sticker issued by the general manager, shall enter the fairgrounds through the service gate designated by the general manager, and shall be subject to inspection by designated officers.

(2) During the fair all vehicles servicing exhibits and concessions shall enter the grounds through the designated service gate. Such vehicles may be used to service and supply exhibits and concessions up to 10:00 a.m. daily, at which time the vehicles shall leave the fairgrounds proper and return to exhibitor or concessionaire parking lots or leave the grounds. Failure to comply with this rule shall result in the vehicle being towed away and consistent failure to comply shall be cause for cancellation of the license issued by the commission.

History: 1954 ACS 61, p. 12, Eff. Feb. 16, 1970.

R 291.353 Mailing lists.

Rule 53. An exhibitor or concessionaire who desires to acquire mailing lists during the period of the fair shall submit in writing a description of the purpose for the list and the method he proposes to use in acquiring the list. The licensee shall not attempt to acquire a mailing list of fair patrons by any method or scheme until and unless the licensee has received written permission of the general manager.

History: 1954 ACS 61, p. 12, Eff. Feb. 16, 1970.

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R 291.354 Advertising and selling.

Rule 54. (1) An exhibitor or concessionaire shall not advertise or sell any product from the space allotted to him for any company not specified on his license.

(2) An exhibitor or concessionaire shall distribute handbills or other advertising matter only from within the confines of his licensed premises.

(3) A commerical exhibitor's or concessionaire's solicitors will not be allowed walking privileges, but shall remain in their licensed space.

(4) Retail selling with or without over the counter delivery of any item is not allowed, except when such privilege has been specifically applied for and approved in accordance with the rules. The licensee shall furnish pictures or other evidence identifying the articles for which the retail sales privilege is asked when requested by the general manager.

History: 1954 ACS 61, p. 12, Eff. Feb. 16, 1970.

R 291.355 Give-aways.

Rule 55. (1) An exhibitor or concessionaire shall obtain from the general manager written permission to distribute give-aways which shall be evidenced by official approval on the face of the exhibitor's or concessionaire's license. This authorization shall be applied for during the time when the space agreement is being negotiated, and not later than 2 weeks before the opening of the fair.

(2) Advertising give-aways shall not be distributed by an exhibitor or concessionaire which may conflict with any type of concession for which a license has been granted.

History: 1954 ACS 61, p. 12, Eff. Feb. 16, 1970.

R 291.356 Prices.

Rule 56. The general manager reserves the right to make adjustments in retail and wholesale prices. If in the opinion of the general manager, a retail or wholesale concessionaire fails to justify as reasonable the prices which he is charging for merchandise, the general manager may adjust such prices.

History: 1954 ACS 61, p. 12, Eff. Feb. 16, 1970.

R 291.357 Sound and noise.

Rule 57. (1) A voice amplifier, musical instrument, radio or other similar device for the purpose of attracting attention to an exhibit or concession shall be used with discretion.

(2) Undue noise from the operation of an exhibit or concession, or noisy or objectionable methods employed in sales or demonstration activities shall not be tolerated. An exhibitor or concessionaire shall have an equal opportunity to conduct his own demonstrations without interference from his neighbors. The final decision of what constitutes undue noise or objectionable methods shall be made by the general manager.

History: 1954 ACS 61, p. 12, Eff. Feb. 16, 1970.

R 291.358 Cleaning.

Rule 58. An exhibitor or concessionaire shall sweep refuse from his premises into the building aisles or onto the streets from 10 p.m. to 11 p.m. each night. Fair clean-up personnel will sweep this refuse from commercial buildings and areas adjacent to concession stands each night after the buildings and streets are emptied. Fair clean-up personnel are forbidden to enter the exhibitor's booths within buildings or concession stands.

History: 1954 ACS 61, p. 12, Eff. Feb. 16, 1970.

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R 291.359 Fraud and misrepresentation.

Rule 59. The commission shall guard against any form of fraud practiced on patrons of the fairgrounds. Willful and intentional misrepresentations or false advertising shall result in expulsion of the licensee, concessionaire, or lessee from the fairgrounds, and forfeiture of his contract and fees without recourse.

History: 1954 ACS 61, p. 13, Eff. Feb. 16, 1970

R 291.360 Fair officers' and employees' interest in concession licenses.

Rule 60. An officer or employee in any division, department, or section of the fair shall not have a concession license, or any interest or connection with any concession license operated on the fairgrounds. If such an interest or ownership is discovered, the concession license shall be cancelled, all money paid on the license shall be forfeited without recourse, and the employee shall be dismissed.

History: 1954 ACS 61, p. 13, Eff. Feb. 16, 1970

R 291.363 Release and removal of exhibits and stands.

Rule 63. (1) An exhibitor or concessionaire shall arrange for the removal of his exhibits and stands under his own supervision. An exhibit, stand, or any part thereof shall not be removed before the close of the fair without written permission of the general manager.

(2) As a protection to exhibitors and concessionaires, fair releases shall be required for all material taken from the fairgrounds at the end of the fair. Releases shall be distributed by the space utilization section at the designated fair closing time and after distribution will be approved by the space utilization section up to 12:00 midnight on the final night of the fair and during regular office hours on days after the close of the fair.

(3) Trucks, cars, or any type of vehicle shall not be allowed on the fairgrounds to pick up exhibits and stands until 2 hours after discontinuing sale of admission tickets on the final day of the fair.

History: 1954 ACS 61, p. 13, Eff. Feb. 16, 1970.

R 291.365 Prohibition of sales or displays.

Rule 65. The licensee covenants to sell, handle, serve, display, or exhibit only such articles as are specified on the license, and only from and upon the space assigned, provided that the general manager may forthwith prohibit the display, sale, or giving away of any item which he considers to be endangering public health, safety, or morals. The licensee agrees to comply immediately with such a ban. The licensee may, within 24 hours, file a written request for a review of the general manager's decision by the director. The sale of the item shall not be permitted until and unless the decision of the general manager is reversed by the director.

History: 1954 ACS 61, p. 13, Eff. Feb. 16, 1970.

FOOD CONCESSIONS

R 291.372 Restaurant and grabstand seating.

Rule 72. A restaurant may seat patrons on stools, at a counter, or in chairs at a table. A grabstand may be without seating facilities, or may seat patrons on stools at a counter, or in chairs alongside the stand.

History: 1954 ACS 61, p. 13, Eff. Feb. 16, 1970.

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R 291.373 Food concession equipment.

Rule 73. (1) A food concession dispensing food or drink shall be equipped with available hand washing facilities on the immediate premises for its employees. Individual towels and soap shall be provided at all times by the licensee.

(2) A food concession stand shall have adequate mechanical refrigeration space, as determined by the general manager and the department of agriculture food inspectors.

History: 1954 ACS 61, p. 13, Eff. Feb. 16, 1970.

R 291.374 Restaurant equipment.

Rule 74. A restaurant shall have a 2-compartment sink so that dispensing dishware and cooking utensils may be washed, rinsed and sterilized in accordance with state and city health requirements. A restaurant shall have a gas or electric water heater of sufficient size to insure an adequate supply of hot water to meet state and city health requirements.

History: 1954 ACS 61, p. 13, Eff. Feb. 16, 1970.

R 291.375 Garbage control.

Rule 75. A food concession licensee shall furnish a minimum of 2 20-gallon garbage cans with tops. A restaurant licensee shall furnish a sufficient number of garbage cans as designated by the fair management. Appropriate can liners or bag liners shall be furnished by the licensee and shall be used in all garbage cans. When these are filled they shall be promptly removed, closed securely, neatly piled for pick-up in a given area, and a new liner inserted. The fair shall provide garbage pick-up each day.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

R 291.377 Food purchases by retail concession licensees.

Rule 77. (1) A retail concession licensee shall buy food from wholesalers who have been granted exclusive licenses. If the food is a specialty item not obtainable through a licensed wholesale purveyor under the terms of his contract the general manager or his authorized representative may permit arrangement for its procurement elsewhere.

(2) A concession licensee who brings food on the fairgrounds without permission of the general manager shall have his concession license revoked and forfeit his license fees without recourse.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

R 291.378 State department of agriculture regulation.

Rule 78. R 285.514.1, governing the cooking, dispensing, and sale of foods and beverages, shall be strictly enforced. Failure to comply with this rule and other applicable rules and regulations are grounds for cancellation of a food concession license. Detailed copies of R 285.514.1 shall be available at the space utilization office.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

R 291.379 Food service containers.

Rule 79. A food concession licensee shall serve soft drinks to customers in paper cups. Dishes and eating utensils used by the public shall be disposable and of a single service variety.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

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R 291.380 Additional health regulations.

Rule 80. A food licensee may be subject to additional health regulations which are deemed necessary by the state and city health authorities. He shall be notified of any such additional regulations.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

R 291.381 Posted price lists.

Rule 81. A food concessionaire shall post price lists on cards furnished by the fair in a conspicuous place on his stand.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

R 291.383 Enforcement of health, sanitation, and food laws.

Rule 83. Any licensee who sells or dispenses food products or beverages hereby expressly agrees that the general manager may close the licensee's place of business or expel such licensee, his or its agents, servants, and employees from the fairgrounds, with forfeiture of all license fees, should such licensee, after being duly warned by the general manager, receive a notice of a violation of health, sanitation, or food laws by appropriate governmental representatives. The licensee may appeal the closing of his place of business or his expulsion by filing a written request for a review of the decision of the general manager by the director, but his place of business shall not be permitted to operate until and unless the director has reversed the decision of the general manager.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

PART 3. AGRICULTURAL EXHIBITORS AT FAIR

R 291.391 Qualifications.

Rule 91. Competition in all departments is open to the world unless otherwise specified. An animal entered in the Michigan exhibitors' classes shall be owned and exhibited by a resident of the state of Michigan. State and public institutions may compete for premiums.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

R 291.392 Special offers.

Rule 92. The commission is not responsible for payment of special offers by various associations and individuals. The general manager, however, shall furnish the various associations necessary lists of winning state fair exhibitors upon request.

History: 1954 ACS 61, p. 14, Eff. Feb. 16, 1970.

R 291.393 Entries.

Rule 93. (1) Application for entries in all departments shall be made by an exhibitor by use of the printed form provided by the fair for that purpose. The exhibitor, by signing the form, agrees to comply with the provisions printed upon it and in the premium list. Applications for stalls and pens shall be sent directly to the Michigan State Fair, Detroit, Michigan 48203, at the time entries are made.

(2) Entries in the departments shall close on the dates listed for those departments in the premium book or at such time as all available space has been allotted. Entries shall not be accepted thereafter unless the time is extended by appropriate action of the director.

(3) A question as to the propriety or right of an animal or article to compete in any class shall be submitted to the general manager for determination.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

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R 291.394 Entrance fees.

Rule 94. An entrance fee, as stated both in the premium book under each of the several departments and on the forms for applying for entries, shall be charged the exhibitor in each department and shall be paid at the time of applying for entries. Fees shall not be refunded for animals entered but not exhibited, except where the request for refund is presented in writing with the exhibitor's reason for such request, and which is accepted by the director.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

R 291.395 Action on entries.

Rule 95. The director reserves the right to refuse, to accept conditionally, or to cancel any entries and awards of a prize for justifiable cause without claim for damages. Cancellations or additional entries shall not be permitted after closing dates, unless the director determines that there are justifiable grounds for such action.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

R 291.397 Placing of exhibits.

Rule 97. Exhibits in each department shall be in place for exhibition at the time specified in the printed provisions of each department. Exhibitors arriving late shall be excluded from exhibition, except in case of exhibitors coming directly from other fairs with advance written permission of the general manager.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

R 291.398 Failure to exhibit.

Rule 98. An exhibitor who fails or refuses to exhibit an animal or article for any reason which proves unsatisfactory to the general manager shall forfeit all fees and rents paid by him, as well as premiums won by earlier exhibits. The general manager may order the exhibitor to vacate such stalls or pens and remove such animals from the fairgrounds.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

R 291.399 Protection of exhibits; risk of loss.

Rule 99. The commission will use diligence to protect livestock and articles entered for exhibition or display after their arrival on the fairgrounds. However, the state of Michigan, its officers, agents, and employees are not liable for loss, injury, or damage to such livestock or articles for any reason whatever.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

R 291.401 Superintendent's duties.

Rule 101. (1) A superintendent shall have charge of the department to which he is assigned, and shall be responsible for assignment of space and showing of the exhibits, and other related activities.

(2) A superintendent shall direct the calling of classes for judging in accordance with the printed program as far as practicable and shall see that the judges report fully upon each animal or article exhibited in each class.

(3) A superintendent shall see that the numbers representing awards are correctly entered on the award sheets, check all numbers, have each book signed by the judge and ring clerk and affix his signature and date, and when completed shall return the book to the entry office.

(4) All such duties shall be performed under the direction of the general manager.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

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R 291.402 Judges; self-interest, objections.

Rule 102. (1) No person shall act as judge in any class in which he may be interested as an exhibitor, agent, or employee of an exhibitor, or otherwise. In such a case the general manager shall remove the interested judge and substitute another judge for that specific class.

(2) Objections to a person serving as judge shall be submitted to the superintendent in writing, prior to the making of an award, giving good and sufficient reasons therefor. The superintendent shall refer this to the general manager who shall resolve the problem arising from the objection.

History: 1954 ACS 61, p. 15, Eff. Feb. 16, 1970.

R 291.403 Judges; duties; decisions.

Rule 103. (1) Judges shall report to the superintendents at their headquarters at the time fixed for awarding premiums on the lots which they are to judge.

(2) If a judge has good reason to believe that an exhibitor, by false entry or otherwise, attempts to deceive the judge or the public to obtain a premium by misrepresentation, he shall report the facts immediately to the superintendent. The superintendent shall report immediately to the general manager for a determination of the eligibility of the exhibitor to show the animal or article involved.

(3) The decision of the judges shall be final, and no appeal shall be considered except in the case of formal protests.

History: 1954 ACS 61, p. 16, Eff. Feb. 16, 1970.

R 291.404 Premiums.

Rule 104. (1) Judges' books only shall be used as evidence for payment of premiums. Ribbons and tags are not accepted for this purpose.

(2) An exhibitor who insults a judge in any manner, or influences another person to do so, shall be reported to the general manager by the judge or the superintendent. The general manager may order that the exhibitor shall forfeit all premiums and be excluded from exhibiting all his animals or articles.

(3) The commission may prorate the premium money in a department or section of a department within the total amount allocated to such department or section.

History: 1954 ACS 61, p. 16, Eff. Feb. 16, 1970.

R 291.405 Formal protests.

Rule 105. (1) A formal protest by an exhibitor shall be made in writing to the general manager accompanied by affidavit setting forth the grounds for protesting. A formal protest against an exhibition of either animals or articles shall be filed at least 24 hours before the awards are made and the general manager shall hear such protest and immediately recommend action to be taken by the director before the showing. A formal protest against an award shall be filed within 6 hours after the award is made and shall be considered by the general manager. Parties interested will be duly notified and opportunity given them to submit evidence before a final decision in accordance with a procedure established by the director.

(2) A person making a formal protest shall deposit a sum of money equal to the amount of the premium involved but not to exceed $25.00. If the protest is sustained the deposit shall be returned to the complainant, and, if it is not sustained, the deposit shall be forfeited.

History: 1954 ACS 61, p. 16, Eff. Feb. 16, 1970.

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R 291.406 Fraud.

Rule 106. The commission reserves the right to take cognizance of fraud which may have been consummated or attempted, and may deal with any person implicated therein in such manner as it deems just and proper.

History: 1954 ACS 61, p. 16, Eff. Feb. 16, 1970.

R 291.409 Release of exhibits.

Rule 109. (1) The release time of exhibits is specified in the provisions listed in the premium book at the beginning of each department's section. An exhibitor removing an animal or article before the hour of release for that department without written permission of the general manager shall forfeit all fees paid and all premiums and awards won.

(2) The general manager may change the time of release in any department at his discretion.

(3) If any exhibitor requests an early release for the sole purpose of entering another fair, the general manager shall receive from such other fair an official confirmation advising the acceptance of entries and stating the dates of judging. This confirmation shall be made available to the general manager no later than the opening day of the Michigan state fair.

History: 1954 ACS 61, p. 16, Eff. Feb. 16, 1970.

R 291.413 Rules; interpretation; violation.

Rule 113. (1) The general manager shall interpret the meaning and application of rules in this part. A request for an opinion, either by an exhibitor or judge, shall be made in writing and returned to the entry office with the award books.

(2) The disregarding or violating of any rule in this part by an exhibitor shall result in forfeiture of all premiums, rights and privileges without recourse.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

ANIMALS

R 291.421 Failure to occupy stalls and pens.

Rule 121. An exhibitor reserving stalls or pens and not occupying them on or before the time specified for the animals to be in place, as listed in the first 8 departments in the general premium book and horse show book, forfeits the entry and stall or pen fees, and the stall or pen is subject to reassignment.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.422 Livestock health certificates.

Rule 122. Cattle, sheep, horses, goats, and swine are not permitted on the grounds unless the health certificates for the animals have been approved by the state veterinarian or his assistant.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.423 Pictures of former champions.

Rule 123. Pictures of the latest fair champions may be printed in the premium book only if such pictures are furnished by the exhibitor and are forwarded to the state fair not later than January 1 of the year of the fair.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.424 Vehicles of livestock exhibitors.

Rule 124. (1) A parking area is provided for exhibitors of horses, cattle, sheep, and swine.

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(2) Livestock exhibitors shall remove all vehicles from the area adjacent to buildings as soon as the unloading of animals and supplies is completed.

(3) Vehicles shall be parked in designated areas.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.425 Care of stalls and pens.

Rule 125. An exhibitor shall keep his stalls and pens clean and well bedded. In case of failure to do so, the superintendent may have this done and have the cost charged to the exhibitor.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.426 Feed and bedding.

Rule 126. The commission shall furnish all feed for poultry, pigeons, rabbits, and cavies and also the first bedding for all livestock.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.427 Purebred animal registry numbers.

Rule 127. Entry clerks shall ascertain the name and registry number of all animals shown in purebred classes, and these shall be shown on the judges' report sheets before payment of premiums will be made.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.428 Delay in showing.

Rule 128. The superintendents of livestock departments may exclude any animal from all competition if there is unnecessary or embarrassing delay by the exhibitor in bringing the animal into the show ring.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.429 Substitution.

Rule 129. An animal in the same class may be substituted by an exhibitor if the substitution is made 24 hours before the breed of animals is scheduled to be judged, and if the animal to be substituted was owned by the exhibitor at the time entries closed. The substitution shall be made and recorded at the entry office before such deadline.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

PART 4. COMMUNITY ARTS EXHIBITORS AT FAIR

R 291.441 Qualifications for exhibitors.

Rule 141. (1) Competition in the community arts section is open to residents of Michigan only and the exhibit shall be the work of the exhibitor and shall be shown in his name.

(2) A person who teaches a home craft may not make an entry in that particular craft.

(3) An exhibitor of flower arrangements and table settings shall not be engaged in any manner in the field of horticulture commercially.

(4) An employee in the community arts section may not exhibit an article in this section directly or indirectly.

History: 1954 ACS 61, p. 17, Eff. Feb. 16, 1970.

R 291.442 Qualifications for exhibits.

Rule 142. (1) Entry may be made in each class listed, but an exhibitor may be limited as to the number of classes she may enter.

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(2) Specific provisions for making entries shall be printed in the annual premium list for the community arts section.

History: 1954 ACS 61, p. 18, Eff. Feb. 16, 1970.

R 291.443 Works of art.

Rule 143. Entry of a work of art in each class may be allowed by each artist, but it shall be one not previously shown at the Michigan state fair. The general manager may reject an entry which is objectionable, unsuitable in size, or fragile.

History: 1954 ACS 61, p. 18, Eff. Feb. 16, 1970.

R 291.449 Judging of exhibits.

Rule 149. (1) Competent judges shall be selected and their decision shall be final.

(2) In the absence of competition in a class, if an article exhibited is inferior in quality or unworthy, the judges shall award a prize or ribbon only where the entered article merits an award.

History: 1954 ACS 61, p. 18, Eff. Feb. 16, 1970.

R 291.450 Formal protests.

Rule 150. A formal protest by a community arts exhibitor shall be made in writing within 24 hours of the opening of the fair to the general manager, accompanied by an affidavit setting forth the grounds for protesting. The general manager may make his recommendation to the director for decision in accordance with the procedure established by the director.

History: 1954 ACS 61, p. 18, Eff. Feb. 16, 1970.

PART 7. NON-FAIR LESSEES AND LICENSEES

R 291.471 Qualified groups.

Rule 171. The general manager, subject to the approval of the director, may permit the use of the fairgrounds or buildings, or both, by the following groups:

(a) A nonprofit organization incorporated under the statutes and regulated by the department of treasury.

(b) A recognized civic, fraternal, educational or religious group when the net profits revert to the group and not to an individual.

(c) An industrial corporation or organization for displays of educational nature, but not for manufacturing purposes.

(d) A commercial organization for product displays and sales.

(e) A profit-seeking organization for the staging of events, activities, or programs compatible with the adaptability of the facilities to such usage, if such events, activities, or programs will not interfere with the staging of the fair.

History: 1954 ACS 61, p. 18, Eff. Feb. 16, 1970.

R 291.472 Leasing and licensing procedures.

Rule 172. (1) The procedures hereinafter described in this rule govern the leasing, licensing, or conceding of the buildings and grounds, or parts thereof, for purposes other than the fair.

(2) The general manager may lease, license, or concede the use of the building and grounds, or parts thereof, for non-fair purposes in accordance with policies established by the commission, subject to the approval of the director.

(3) An applicant for such usage shall file a request indicating the nature of the event and the facilities and dates desired.

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(4) Upon issuance of the buildings and grounds license, a sum designated by the general manager shall be deposited. The balance of the rental shall be paid 14 days before the event.

(5) A licensee, lessee, or concessionaire shall present to the general manager, 10 days before the property is to be utilized by him, a certificate of insurance in the amount stated on the license agreement as evidence of protecting himself and holding the state of Michigan, its officers, agents, and employees harmless from any liability.

(6) An agreement for such usage falling within the policies of the commission shall be executed by the director or the general manager as determined by the director.

(7) A renter, lessee, licensee, or user of the buildings and grounds shall abide by the provisions prescribed on the license agreement and by the rules and regulations of the department of agriculture, fairs division.

History: 1954 ACS 61, p. 18, Eff. Feb. 16, 1970.

R 291.473 Rent and utility charges.

Rule 173. A rental charge, established by the commission, may be made for use of the buildings or grounds. All lessees and licensees shall pay for utilities, fuel used for heating purposes, and such other services furnished by the state fair maintenance staff and determined to be reimbursable by the general manager.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.475 Concession rights and parking.

Rule 175. (1) The commission retains all concession rights, unless specifically granted to a lessee or licensee. If the lessee or licensee is granted concession rights, the lessee or licensee shall supervise his own concessions or the contracts for the same.

(2) The parking privilege shall remain the exclusive domain of the commission.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.476 Compliance with laws and ordinances.

Rule 176. A lessee or licensee shall comply with all laws of the state of Michigan, and health, fire, and pertinent ordinances of the city of Detroit and the state of Michigan.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.478 Cancellation by building licensee.

Rule 178. A building licensee shall forfeit all advance rental payments if he requests cancellation of his license at any time later than 30 days before the scheduled event.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.479 Structural changes and advertising.

Rule 179. A lessee or licensee shall discuss with, and secure written approval of, the fair management before electrical wiring, decorations, partitions, or other structural changes are made in any of the rented buildings or grounds, and before posting signs, posters, and other advertising on the fair premises.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

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R 291.480 Cancellation by building licensor.

Rule 180. The director may cancel any license agreement or lease, upon recommendation of the general manager, for violation of the provisions of the license agreement or lease.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

PART 9. HEARINGS

R 291.491 Requests.

Rule 191. An interested party in a contested matter in order to request a hearing shall submit in writing to the commission a comprehensive statement of the complaint.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.492 Notices and location.

Rule 192. Notice of a hearing before the commission or its designated representative shall be given by registered mail, and shall state the date, hour, place, issues involved, and reasons for holding the hearings. The notice shall be mailed at least 10 days prior to the hearing. Unless indicated otherwise, a hearing shall be held at the Michigan State Fairgrounds, Detroit, Michigan.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.493 Appearances and defaults.

Rule 193. An appearance shall be made in person, by a duly authorized representative, or by counsel. If a person who has been served with a notice of hearing fails to appear at a noticed hearing, the hearing officer may proceed with a hearing of the matter brought before it, and on the evidence presented may make its decision.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.494 Adjournments and continuances.

Rule 194. A hearing shall not be adjourned or continued, except upon order of the commission or its agent conducting the hearing. A motion or request for an adjournment or a continuance shall be in writing and state concisely the reasons why an adjournment or continuance is necessary. The motion or request shall not be considered unless it is filed with the commission at least 3 days before the date assigned for the hearing, except upon order of the commission, which exception shall be granted only upon a showing that, for reasons not within the control of the person making the motion or request, the motion or request could not be filed within the time limit.

History: 1954 ACS 61, p. 19, Eff. Feb. 16, 1970.

R 291.495 Depositions.

Rule 195. A deposition shall only be taken upon written permission of the commission where it is proved in writing to the commission that it is impractical or impossible to otherwise obtain the evidence. A deposition shall be taken according to the general court rules for taking depositions in civil cases in the state of Michigan, with all parties being given an opportunity to cross-examine the witness under oath.

History: 1954 ACS 61, p. 20, Eff. Feb. 16, 1970.

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R 291.496 Answers, briefs, and arguments.

Rule 196. A person who has been served with a notice of hearing may file a written answer thereto before the date set for hearing, or at the hearing may appear and present an oral statement on the charges contained in the notice of hearing. When written briefs or arguments are presented, a copy shall be served on the general manager, who will accept service on behalf of the commission, and upon opposite parties, at least 4 days before the date set for the hearing.

History: 1954 ACS 61, p. 20, Eff. Feb. 16, 1970.

R 291.497 Stipulations.

Rule 197. The parties to any hearing, by a stipulation in writing filed with the commission, may agree upon any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing. Parties are requested to agree upon the facts when practicable.

History: 1954 ACS 61, p. 20, Eff. Feb. 16, 1970.

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DEPARTMENT OF NATURAL RESOURCES

LAW ENFORCEMENT DIVISION

FIELD DOG TRIALS AND CHASES

R 299.1—R 299.6 Rescinded.

History: 1944 AC, p. 132; rescinded 1954 ACS 92, p. 16, Eff. Aug. 4, 1977.

PERMIT TO KEEP GAME AFTER LEGAL EXPIRATION DATE

R 299.10—R 299.17 Rescinded.

History: 1944 AC, p. 132; rescinded 1954 ACS 92, p. 16, Eff. Aug. 4, 1977.

DEPREDATIONS OF BIRDS AND ANIMALS

R 299.21—R 299.27 Rescinded.

History: 1944 AC, p. 135; rescinded 1954 ACS 92, p. 16, Eff. Aug. 4, 1977.

TAKING NUISANCE BEAVER FOR PROPAGATION PURPOSES

R 299.31—R 299.37 Rescinded.

History: 1944 AC, pp. 149-151; rescinded 1954 ACS 92, p. 16, Eff. Aug. 4, 1977.

WILDLIFE DIVISION

GAME BREEDERS

R 299.41—R 299.46 Rescinded.

History: 1954 AC, pp. 1904, 1905; rescinded 1954 ACS 69, p. 44, Eff. Sept. 13, 1971.

PET OR POSSESSION PERMITS

R 299.51—R 299.58 Rescinded.

History: 1944 AC, pp. 152, 153; 1954 AC, pp. 1905, 1906; rescinded 1954 ACS 101, p. 28, Eff. Oct 18, 1979.

RULES FOR PUT-TAKE PHEASANT AREAS

(By authority conferred upon the natural resources commission by sections 2 and 3a of chapter 2 of Act No. 17 of the Public Acts of 1921, as amended, and sections 9 and 252 of Act No. 380 of the Public Acts of 1965, as amended, being §§299.2, 299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.61 Hunting and dog training hours.

Rule 1. It is unlawful to hunt with firearms or dogs, or to break or train dogs on any wild animal or wild bird, within the areas described as open to put-take pheasant hunting during the put-take hunting season except during the hours designated as open to put-take hunting by the natural resources commission. It is lawful to break, train, or use dogs for hunting foxes and raccoons between the hours of sunset and sunrise during their respective open seasons for training and hunting on the designated put-take pheasant hunting areas.

History: 1954 ACS 80, p. 11, Eff. Aug. 17, 1974.

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R 299.62 Regulated hunter use.

Rule 2. Hunters with small game or sportsmen's licenses ending in an even number may hunt only on even-numbered days and hunters with licenses ending in an odd number may hunt only on odd-numbered days within the areas described as open to put-take pheasant hunting lying within the Gourdneck state game area, Bald Mountain and Holly recreation areas and Wetzel state park.

History: 1954 ACS 80, p. 12, Eff. Aug. 17, 1974.

IMPORTATION PERMITS

R 299.71—R 299.75 Rescinded.

History: 1944 AC, p. 153; 1954 AC, pp. 1906, 1907; rescinded 1954 ACS 101, p. 28, Eff. Oct. 18, 1979.

PUBLIC EXHIBITION OF WILD ANIMALS

R 299.81—R 299.89 Rescinded.

History: 1944 AC, pp. 153-155; 1954 AC, pp. 1907-1909; rescinded 1954 ACS 73, p. 9, Eff. Oct. 12, 1972.

R 299.91—R 299.105 Rescinded.

History: 1954 ACS 5, pp. 49-54, Eff. Feb. 15, 1956; rescinded 1954 ACS 73, p. 9, Eff. Oct. 12, 1972.

SCIENTIFIC COLLECTOR'S PERMIT

R 299.111—R 299.116 Rescinded.

History: 1944 AC, p. 155; 1954 AC, p. 1909; rescinded 1954 ACS 101, p. 28, Eff. Oct. 18, 1979.

WILD WATERFOWL AND EGGS

R 299.121—R 299.127 Rescinded.

History: 1944 AC, pp. 155, 156; 1954 AC, pp. 1909, 1910; rescinded 1954 ACS 101, p. 28, Eff. Oct. 18, 1979.

SUPERVISOR OF WELLS

OIL AND GAS OPERATIONS

R 299.141—R 299.190 Rescinded.

History: 1944 AC, pp. 157-162; 1944 ACS 18, pp. 27-33; 1954 AC, pp. 1910-1918; rescinded 1954 ACS 8, p. 5, Eff. Nov. 14, 1956.

SPACING, DRILLING, DEEPENING, AND PLUGGING OF WELLS FOR NATURAL DRY GAS

R 299.201—R 299.244 Rescinded.

History: 1944 AC, pp. 163-165; 1944 ACS 18, pp. 35-39; 1954 AC, pp. 1918-1923; rescinded 1954 ACS 8, p. 14, Eff. Nov. 14, 1956.

PUBLIC HEARINGS

(By authority of section 8 of Act No. 61 of the Public Acts of 1939, as amended, being §319.8 of the Michigan Compiled Laws)

R 299.251 Public hearings.

Rule 1. A public hearing before the supervisor of wells and the advisory board may be called by the supervisor or the board whenever necessary to carry out the provisions of Act No. 61 of the Public Acts of 1939.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1924.

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R 299.252 Notice of public hearings.

Rule 2. (1) Notice of public hearings to be held before the supervisor and the advisory board pertaining to specific areas or fields within the state shall be sent to all interested persons known to the supervisor by mailing in the usual manner to the last known post office address of said persons, and by the publishing of said notice, at least 10 days before the date of the hearing specified, in a newspaper of general circulation in the county or counties in which the designated areas or fields are located, and in the oil and gas news published at Mt. Pleasant, Michigan. Affidavits of mailing and publishing of said notice shall be filed with the supervisor.

(2) Notice of public hearings to be held before the supervisor and the board for the purpose of adopting, amending, or supplementing the general regulations shall be sent to all interested persons known to the supervisor, by mailing in the usual manner to the last known post office address of such persons, and shall be published at least 10 days before the date of such hearing in the state journal published at Lansing, Michigan, and in the oil and gas news, published at Mt. Pleasant, Michigan. Affidavits of the mailing of such notice and of the publication shall be filed with the supervisor.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1924.

R 299.253 Time and place of public hearings.

Rule 3. (1) Public hearings before the supervisor of wells and the advisory board are to be held whenever the supervisor or the board find that such hearings are necessary, and shall be held at such time and place as may be designated by the supervisor.

(2) Four members of the board shall constitute a quorum.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1924.

R 299.254 Order of business.

Rule 4. Items of business upon which testimony and evidence are to be received by the supervisor and the board at public hearings are to be considered as follows:

(a) Calling meeting to order and reciting notice.

(b) Recitation of order of business.

(c) Receiving oral or written testimony and evidence from interested persons or their representatives.

(d) Stenographic or verbatim records will be made of all hearings.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1924.

R 299.255 Adjournment of public hearings.

Rule 5. Public hearings before the supervisor and the board may be adjourned from time to time, within the discretion of the supervisor and the board, until all required testimony has been submitted and the supervisor and the board believe that all pertinent data or adequate information have been received and heard.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1924.

R 299.256 Record of proceedings.

Rule 6. The record of the proceedings of all public hearings will be kept by the supervisor.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1924.

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R 299.257 Modification of and additions to rules.

Rule 7. The supervisor, after consultation with the board, will, from time to time, amend, modify, or add to these rules and adopt such additional rules as may be deemed necessary.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1924.

R 299.258 Publication of rules.

Rule 8. These rules shall be published within 30 days after adoption and thereafter as amended in the oil and gas news published at Mt. Pleasant, Michigan.

History: 1944 ACS 17, p. 5; 1954 AC, p. 1925.

FORESTRY DIVISION

COMMERCIAL FORESTS

R 299.261—R 299.275 Rescinded.

History: 1954 AC, pp. 1925-1927; rescinded 1954 ACS 69, p. 47, Eff. Nov. 30, 1971.

SALE OF STATE LAND

R 299.281—R 299.291 Rescinded.

History: 1944 AC, p. 169; 1954 AC, pp. 1927-1929; rescinded 1954 ACS 92, p. 16, Eff. Aug. 4, 1977.

PARKS DIVISION

HUNTING RESTRICTION—HIGHLAND AND WATERLOO RECREATION AREAS

R 299.291a Hunting restriction; Highland recreation area.

Rule 1. It shall be unlawful to hunt, shoot, or kill, or attempt to hunt, shoot, or kill, any wild bird or wild animal with a firearm, or to discharge a firearm on land under the jurisdiction of the parks division with the exception of duck hunting on Teeple Lake during the legal season, described as follows: all land in the E half of section 24 lying south of highway M-59, T3N, R7E, Highland township; all land in section 19; all land in section 30 lying west of Ford road and east of Teeple Lake road; and that part of the NW quarter of the NE quarter of section 31 lying north and west of Teeple Lake road, T3N, R8E, White Lake township, all in Oakland county.

History: 1954 ACS 80, p. 12, Eff. Sept. 12, 1974.
Editor's note: R 299.291a was formerly numbered R 299.291, but has been renumbered to avoid conflict with another R 299.291.

R 299.292 Hunting restriction; Waterloo recreation area.

Rule 2. It shall be unlawful to hunt, shoot, or kill, or attempt to hunt, shoot, or kill, any wild bird or wild animal with a firearm, or to discharge a firearm on land under the jurisdiction of the parks division described as follows: the SE quarter of the SW quarter of section 2, T2S, R1E, Leoni township, Jackson county.

History: 1954 ACS 80, p. 12, Eff. Sept. 12, 1974.

R 299.293 Rescission.

Rule 3. The rule entitled "Hunting restriction—Highland recreation area," approved by the conservation commission on October 10, 1963, is rescinded.

History: 1954 ACS 80, p. 12, Eff. Sept. 12, 1974.

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WATERWAYS DIVISION

PUBLIC ACCESS SITES

(By authority conferred on the commission of natural resources by sections 2 and 3a of Act No. 17 of the Public Acts of 1921, as amended, and sections 9 and 252 of Act No. 380 of the Public Acts of 1965, being §§299.2, 299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.301 Definitions.

Rule 1. (1) "Designated" means listed in director's orders, posted with a sign or signs at the site, or reasonably identified for a particular use.

(2) "Proper written permission" means a written permit issued by the director of the department of natural resources or a representative authorized by the director to do so.

(3) "Camp" means the erection of a tent; the opening or setting up of a tent-type camper; the parking and occupancy of a travel or house trailer; sleeping in any type motor vehicle, sleeping bag, or in any other manner after 10:00 p.m.; or sleeping in an anchored, tied, or moored boat or floating craft of any type in waters immediately offshore of state-owned public access site lands after 10:00 p.m.

History: 1954 ACS 85, p. 12, Eff. Sept. 27, 1975.
Editor's note: Former R 299.301, deriving from 1944 ACS 27 and pertaining to use and occupancy of state lands, expired May 1, 1981

R 299.302 State public access sites; unlawful acts.

Rule 2. On state-owned public access sites, it is unlawful:

(a) To enter, use, or occupy the public access sites for any purpose when they are posted against such entry, use, or occupancy, as ordered by the director of the department of natural resources.

(b) To camp on the premises, except where specific camping sites or areas are provided and designated. Where camping is allowed, it is unlawful to camp on an individual access site for more than a total of 15 days during any calendar year, or to leave a campsite unoccupied for more than 24 hours.

(c) To park vehicles of any type in areas posted as no parking; or, where designated parking areas exist, to park vehicles of any type in an area other than the designated parking area.

(d) To enter, use, or occupy the premises during the hours of 11:00 p.m. to 4:00 a.m. daily where such closing hours are posted on the premises; or to swim, wade, bathe, or engage in any other activity when the activity is specifically prohibited by notices posted on the premises.

(e) To store or leave a boat, duckblind, ice shanty, rafts, or other property on the premises, or anchored on the adjacent bottom lands, for more than 24 hours without proper written permission. This provision does not apply to anyone lawfully occupying designated camping sites.

(f) To dispose of refuse, rubbish, trash, or garbage anywhere on the premises, except in the receptacles provided for that purpose and only if the refuse, rubbish, trash, or garbage resulted from the use of the premises.

(g) To use the premises for business or commercial purpose, or for an organized activity or special event, without proper permission.

(h) To engage in any violent, abusive, loud, boisterous, vulgar, lewd, wanton, obscene, or otherwise disorderly conduct, or to lounge, sit, or lie upon walks, roads, or paths obstructing the free passage of other persons.

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(i) To post, place, or erect signs, to place or distribute advertising material, to erect a fence or barrier, to construct or occupy improvements, or enclose the lands.

(j) To destroy, damage, or remove any state property, living tree or shrub, planted grasses, or other vegetation without proper written permission.

(k) To operate a self-propelled motor or mechanically driven vehicle anywhere on the premises, except on designated roads and parking lots which are open to public use.

(l) To move, remove, destroy, mutilate, or deface posters, notices, signs, or markers of the department of natural resources or any other agency of government.

(m) To ride or lead a horse, other riding animal, or pack animal on, or to allow such animal or any animal-drawn vehicle to use or travel on, areas other than public roads or trails designated for that use without proper written permission.

History: 1954 ACS 85, p. 12, Eff. Sept. 27, 1975.

R 299.303 Penalty.

Rule 3. In accordance with section 3a of Act No. 17 of the Public Acts of 1921, as amended, being §299.3a of the Michigan Compiled Laws, a person who violates any rule, or fails to perform any act set forth in these rules, is guilty of a misdemeanor.

History: 1954 ACS 85, p. 12, Eff. Sept. 27, 1975.

PARKS DIVISION

STATE PARKS AND RECREATION AREAS

R 299.311 Rescinded.

History: 1944 ACS 29, p. 10; 1954 AC, p. 1929, expired May 1, 1961; rescinded 1954 ACS 61, p. 20, Eff. Feb. 16, 1970.

STATE PARKS AND RECREATION AREAS

(By authority conferred on the commission of natural resources by sections 2 and 3a of Act No. 17 of the Public Acts of 1921, as amended, and by sections 9 and 252 of Act No. 380 of the Public Acts of 1965, as amended, being §§299.2, 299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.321 State park and recreation lands; prohibited acts generally.

Rule 1. A person shall not commit any of the following acts in a state park or recreation area:

(a) Enter, use, or occupy state-owned lands or waters for any purposes when the lands are posted prohibiting such entry, use, or occupancy, as determined by the director of the department of natural resources.

(b) Destroy, damage, or remove state property, trees, shrubs, wildflowers, planted grasses, or other vegetation without first obtaining proper written permission. This subdivision does not apply to the picking and removal of mushrooms, berries, and edible fruits or nuts.

(c) Enter or remain in a campground, outdoor center, cabin area, or day campsite between the hours of 10:00 p.m. and 8:00 a.m. unless the person is a lawfully registered occupant. A person shall not enter or remain in a day-use area between the hours of 10:00 p.m. to 8:00 a.m. without first obtaining proper written permission.

(d) Peddle or systematically solicit business of any nature; distribute handbills or other advertising matter; post signs on any lands, waters, structures, or

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property; or use such areas as a base of commercial operations without first obtaining proper written permission.

(e) Use a loudspeaker, public address system, or sound-amplifying equipment of any kind without proper written permission. Permission shall not be granted if such equipment is capable of interfering with the use and enjoyment of the park by others. A person shall not operate any motor, motorboat, motor vehicle, radio, television, phonograph, tape recorder, or any other device in such a manner as to create excessive noise that disturbs or annoys others.

(f) Engage in any violent, abusive, loud, boisterous, wanton, obscene, or otherwise disorderly conduct tending to create a breach of the peace; disturb or annoy others; loiter, sit, or lie upon walks, passages, steps, or porches thereby obstructing the free passage of others; remove, damage, or steal the property of another.

(g) Build fires except in designated places or except in stoves or grills that are approved by an authorized representative of the department of natural resources.

(h) Dump, place, throw, or leave, or cause or permit the dumping, placing, throwing, or leaving of litter in any park, recreation land, or waters, except in containers provided; deposit refuse or waste material that has originated outside a park in receptacles provided for park uses; set fire to the contents of a refuse basket or trash container; or place or burn garbage in a fire ring or stove.

(i) Store or leave a boat, fish shanty, or other property in any park or recreation area without first obtaining proper written permission. This subdivision does not apply to registered campers using campground facilties.

(j) Possess a glass container within any land or water area that is designated as a bathing beach or a land or water area that is regularly used for sunbathing, swimming, or wading.

History: 1954 ACS 22, p. 69, Eff. May 13, 1960; 1954 ACS 61, p. 20, Eff. Feb. 16, 1970; 1954 ACS 100, p. 75, Eff. Aug. 11, 1979.

R 299.322 Camping; prohibited acts.

Rule 2. With respect to state parks and recreation areas, the following provisions apply:

(a) A person shall not camp without a camping permit issued by an authorized representative of the department of natural resources. A person may camp in a designated campground or campsite only when the established fee is paid.

(b) A person shall not obtain a camping permit for use by a camping party of which the person is not a member.

(c) A noncamper shall not visit campers between the hours of 10:00 p.m. and 8:00 a.m.

(d) A person shall not walk into, or drive a vehicle into or through, a controlled camping area. This provision does not apply to registered campers and their vehicles or to persons legitimately visiting a specific, registered camper.

(e) A registered camping party shall not leave a campsite continuously unoccupied during the first 24 hours of the permit period. A campsite is considered to be occupied if at least 1 member of the registered camping party is in attendance during the nighttime hours of the initial 24-hour period.

(f) A person shall not tow a rented trailer into a campground unless the towing vehicle is a part of a registered camp.

(g) A person shall not camp for more than 15 consecutive nights in any separately administered campground in a park or recreation area between May 15 and September 15. When any camping party is required to leave a campground, it is not eligible to return until 5 nights have elapsed.

(h) A person shall not use a campground for a permanent or semi-permanent residence or as a base for the operation of a business.

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(i) No more than 1 single family nor more than 4 unrelated persons shall camp on 1 campsite. For the purposes of this rule, a single family shall include a mother or father and their children. A single family may include relatives if no more than 1 shelter is used.

(j) A camper shall not leave a campsite unoccupied for more than 24 hours during the period May 15 through labor day without written permission.

(k) A person shall not allow, place, or drive more than 2 motor vehicles onto 1 campsite or into a campground, except 4 motorcycles are permitted if each is operated by a registered camper.

History: 1954 ACS 61, p. 21, Eff. Feb. 16, 1970; 1954 ACS 100, p. 76, Eff. Aug. 11, 1979.

R 299.323 Motor vehicles; prohibitions.

Rule 3. A person shall not commit any of the following acts in a state park or recreation area:

(a) Operate or park a motor vehicle except on designated roads or designated parking areas; operate a motor vehicle on a park road or parking lot at a speed in excess of 25 miles per hour, in an unsafe manner, at a speed greater than that posted, or to disobey traffic signs. When a motor vehicle is found parked in a state park or recreation area, the registration plate displayed on the motor vehicle shall constitute prima facie evidence that the owner of the vehicle is the person who parked it there.

(b) Operate a motor-driven vehicle or any motorized device, except on roads and parking lots constructed for the operation of licensed vehicles or on trail roads or areas designated for off-the-road vehicle use.

(c) Operate an unlicensed vehicle on a park road or parking lot.

History: 1954 ACS 61, p. 21, Eff. Feb. 16, 1970; 1954 ACS 100, p. 76, Eff. Aug. 11, 1979.

R 299.324 Animals; prohibited acts.

Rule 4. A person shall not commit any of the following acts in a state park or recreation area:

(a) Possess a dog or other animal unless it is under immediate control on a leash not exceeding 6 feet in length. The leash provision does not apply to a dog while used in hunting, or in field trials, or while being trained, when upon lands open to such uses.

(b) Allow a dog or other animal within a water or land area designated as a bathing beach or in any other water area used for swimming or wading; bring a dog, except leader dogs for the blind, or other animal into an enclosed park building or leave a dog or other animal unattended at any time; permit a dog or other animal to run loose or create a disturbance; or to fail to properly control a dog or other animal. Any dog found not in the possession of, or under the immediate control of, its owner or the owner's agent, or any dog creating a nuisance or disturbance, may be removed from the park.

(c) Ride, permit, or allow horses or other riding animals without written permission, except on bridle trails and in horsemen's campgrounds designated by the department of natural resources, or under proper written permission issued for field dog trials.

History: 1954 ACS 61, p. 21, Eff. Feb. 16, 1970; 1954 ACS 100, p. 76, Eff. Aug. 11, 1979.

R 299.325 Firearms and hunting; prohibited acts.

Rule 5. (1) A person shall not commit any of the following acts in a state park or recreation area:

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(a) Carry or have in possession a firearm unless unloaded in both barrel and magazine; shoot an air gun, gas gun, spring-loaded gun or slingshot; or shoot with a bow and arrow, except during established hunting seasons on lands open to hunting. This subdivision does not apply to a target range or archery range officially established by the department or to an officially sanctioned field trial. A person shall not engage in target shooting except on designated shooting ranges.

(b) Hunt, trap, kill, wound, capture, or intentionally disturb any bird, animal, or other wildlife, except during established hunting and trapping seasons and on lands open to hunting or trapping. This subdivision does not apply to the possible disturbance of wildlife while lawfully training a hunting dog on lands open to hunting and trapping.

(2) The commission of natural resources may except from the provisions of this rule state parks and recreation areas or parts thereof when, in the opinion of the commission, such exception best serves the public interest.

History: 1954 ACS 61, p. 22, Eff. Feb. 16, 1970; 1954 ACS 100, p. 77, Eff. Aug. 11, 1979.

R 299.326 Definitions.

Rule 6. As used in these rules:

(a) "Camp" means the use or intended use of any device, shelter, or equipment for the purpose of sleeping or shelter during the hours of 10:00 p.m. and 8:00 a.m.

(b) "Proper written permission" means a written permit issued by the director of the department of natural resources or the director's authorized representative.

History: 1954 ACS 61, p. 22, Eff. Feb. 16, 1970; 1954 ACS 100, p. 77, Eff. Aug. 11, 1979.

R 299.327 Penalties.

Rule 7. Violation of any park rule may result in revocation of a camping permit or eviction from the park, or both.

History: 1954 ACS 61, p. 22, Eff. Feb. 16, 1970; 1954 ACS 100, p. 77, Eff. Aug. 11, 1979.

R 299.328 Persons exempt.

Rule 8. Department employees acting in the line of duty or persons performing specific acts authorized by written permission are exempt from the provisions of these rules.

History: 1954 ACS 100, p. 77, Eff. Aug. 11, 1979.

LANDS DIVISION

STATE LANDS OTHER THAN STATE PARKS AND RECREATION AREAS

(By authority conferred on the commission of natural resources by sections 2 and 3a of Act No. 17 of the Public Acts of 1921, as amended, and sections 9 and 252 of Act No. 380 of the Public Acts of 1965, being §§299.2, 299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.331 State lands; unlawful acts.

Rule 1. (1) On state lands other than state parks and recreation areas, it is unlawful for any person:

(a) To enter, use, or occupy the lands for any purpose when they are posted against such entry, use, or occupancy, as ordered by the director of the department of natural resources.

(b) To camp in 1 location during any calendar year for more than 15 days from May 1 to labor day or for more than 20 days from labor day to May 1 without

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proper written permission. If a camp location is changed during a calendar year, the new camp established shall be at least ¼ mile from the previous camp.

(c) To store or leave a boat, fish shanty, camping equipment, or other property for more than 15 days without proper written permission.

(d) To use state lands or facilities as a place to dispose of refuse, rubbish, trash, or garbage without proper written permission. This does not apply to refuse or garbage resulting from lawful uses of state lands, which shall be placed in proper receptacles or buried.

(e) To move, remove, destroy, mutilate, or deface posters, notices, signs, or markers of the department of natural resources or of any other agency of government.

(f) To post, place, or erect signs; to place or distribute advertising material; to erect a fence or barrier; to construct or occupy improvements or to enclose the lands without proper written permission.

(g) To use the lands for a business or commercial purpose without proper written permission.

(h) To destroy, damage, or remove any state property, living tree or shrub, planted grasses, or other vegetation without proper written permission. This does not apply to the picking and removal of mushrooms, berries, and other edible fruits and nuts, and those wild flowers the removal of which is not made unlawful by statute.

(i) To obstruct any road or trail in a manner that hinders public access to the lands without proper written permission.

(j) To use or operate any wheeled motorized vehicle:

(i) Where there is no visible evidence of a forest road or trail without proper written permission.

(ii) To enter or to cross any stream, except over a bridge, culvert, or similar structure, or by walking the vehicle across without power applied to the drive wheel or wheels, or as may be authorized by the director.

(iii) On forest roads, trails, or areas posted against such use or operation by the director or his authorized representative.

(iv) In organized events including but not limited to races and acceleration or endurance contests without proper written permission.

(k) To park any wheeled motorized vehicle more than 50 feet from the traveled portion of a forest road or trail open to such vehicle use or a parking lot without proper written permission.

(2) The department may charge the sponsor or permittee of any organized event a fee for the use of the land or may require a performance bond to insure cleanup measures, the removal of signs, repair of damage, and other factors, or both such fee and bond.

(3) Department employees in line of duty, emergency vehicles, public utility vehicles in performance of work functions, or persons performing specific acts authorized by proper written permission are exempt from the provisions of subrule (1)(j) and (k).

(4) The director shall use the following criteria in making closures governing use of wheeled motorized vehicles:

(a) Damage that has already occurred to soil and vegetation which should be repaired, either by the department or by the forces of nature left unhampered by use.

(b) Areas that are indispensable to the forest ecosystem.

(c) Conflict with other legitimate recreational uses or rights of adjacent land owners.

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(d) Areas particularly significant to wildlife.

(5) The department will notify the advisory committee on off-road vehicle rules of an intent of closure prior to it being closed, except in an emergency.

History: 1954 ACS 25, p. 29, Eff. Feb. 14, 1961; 1954 ACS 54, p. 33, Eff. May 15, 1968; 1954 ACS 72, p. 10, Eff. June 27, 1972; 1954 ACS 76, p. 9, Eff. Aug. 10, 1973.

R 299.332 Natural resources department campgrounds; unlawful acts.

Rule 2. In addition, in designated department of natural resources administered campgrounds other than those in state parks or recreation areas, it shall be unlawful:

(a) To place any camping facilities, such as a trailer, camper, tent, or similar equipment without attaching a campground registration tag on the designated campsite marker post, or if marker post is not available, on the facilities in a prominent and accessible place or to fail to place the appropriate part of the tag, properly filled out, in a register box. The tag shall be furnished by the department of natural resources and available at the campground.

(b) To camp in other than a designated site.

(c) To camp in any 1 campground for more than a total of 15 days from May 1 to labor day, or more than 20 days from labor day to May 1, without proper written permission.

(d) To leave a campsite unoccupied during the first 24 hours after establishing the camp; residing in the camp the first night after registering constitutes occupying the campsite; or, after this initial period, to leave the campsite unoccupied by the registrant, or other person chiefly responsible, for more than 24 hours from May 1 to labor day.

(e) To store or leave a boat or other property for more than 48 hours without proper written permission. This provision shall not apply to currently registered campers using campground facilities.

(f) To build a fire, except in a designated place or in a stove or grill as approved by an authorized representative of the department of natural resources.

(g) To use a loudspeaker, public address system, or sound amplifying equipment of any kind without proper written permission; permission will not be granted if such system is capable of interfering with the use and enjoyment of the campground by other persons; or to operate a motor, motorboat, motor vehicle, radio, television, or any device in a manner that produces excessive noise.

(h) To engage in any violent, abusive, loud, boisterous, vulgar, lewd, wanton, obscene, or otherwise disorderly conduct; to disturb or annoy other persons; or to lounge, sit, or lie upon walks, roads, or paths obstructing the free passage of other persons.

(i) To deposit refuse or waste material which has originated outside a campground in receptacles provided for campground users; to set fire to the contents of a refuse basket or trash container; or to place or burn garbage in a fire ring or stove.

(j) To operate an off-the-road motor driven vehicle, such as a minibike, motorcycle, dunemobile, snowmobile, amphibious vehicle or any motorized device, except for entrance to and departure from a campground.

(k) For an unregistered camper or campground visitor to enter or remain in a campground, day use area, beach, or parking lot between 10 p.m. and 8 a.m.

(l) For more than 1 camp to occupy a designated campsite.

(m) To ride or allow horses or other riding animals in a campground.

(n) To possess a dog or other animal, unless it is under immediate control on a leash not more than 6 feet long.

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(o) To discharge firearms, air guns, gas guns, spring-loaded guns, or sling shots.

History: 1954 ACS 54, p. 33, Eff. May 15, 1968; 1954 ACS 72, p. 11, Eff. June 27, 1972.

R 299.333 State game areas in zone 3; unlawful acts.

Rule 3. In addition, on state-owned lands in a state game area in zone 3, as described in section 10 of chapter 1 of Act No. 286 of the Public Acts of 1929, as amended, being §311.10 of the Michigan Compiled Laws, it is unlawful:

(a) To camp between April 1 and October 1, except in areas specifically designated for such use.

(b) To operate a self-propelled motor or mechanically driven vehicle, including snowmobiles, on other than a designated established road open to the public or a parking lot, or to park such vehicle more than 50 feet from the traveled portion of an established road open to the public or a parking lot designed for such use without proper written permission.

(c) To ride or lead a horse, other riding animal, or pack animal on, or to allow such animal or any animal-driven vehicle to use or travel on, any areas other than established public roads or trails designated for such use, without proper written permission.

(d) To pick and remove edible fruits, nuts, and berries from food shrub plantings established as part of habitat development for wildlife. This includes such shrubs as autumn olive, multiflora rose, buffalo berry, hazelnut, and sand cherry.

History: 1954 ACS 54, p. 34, Eff. May 15, 1968; 1954 ACS 72, p. 12, Eff. June 27, 1972; 1954 ACS 76, p. 9, Eff. Aug. 10, 1973.

R 299.334 Definition of terms.

Rule 4. (1) "Designated campground, road, trail, or site" means campground road, trail, or site listed in director's orders and posted with a sign.

(2) "Proper written permission" means a written permit issued by the director of the department of natural resources or a representative authorized by the director to do so.

(3) "Forest road" means any hard surfaced, gravel, or dirt roads; fire lanes; abandoned railroad rights-of-way and logging roads, except state and county highways.

(4) "Trail" means a 1- or 2-track path existing at the effective date of this rule, or one established and designated for a specific purpose, including, but not limited to, bicycles, cross-country skiing, hiking, horses, motorcycles, and snowmobiles.

History: 1954 ACS 54, p. 34, Eff. May 15, 1968; 1954 ACS 72, p. 12, Eff. June 27, 1972; 1954 ACS 76, p. 9, Eff. Aug. 10, 1973.

R 299.335 Violations.

Rule 5. A person who violates any rule or fails to perform any act set forth in these rules shall, in accordance with section 3a of Act No. 17 of the Public Acts of 1921, as amended, be deemed guilty of a misdemeanor.

History: 1954 ACS 54, p. 34, Eff. May 15, 1968; 1954 ACS 72, p. 12, Eff. June 27, 1972.

FORESTRY DIVISION

DEADSTREAM SWAMP

(By authority conferred on the commission of conservation by section 3a of Act No. 17 of the Public Acts of 1921, as amended, and by sections 9 and 252 of Act

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No. 380 of the Public Acts of 1965, being §§299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.341 Area description.

Rule 1. The Deadstream swamp area includes the following described state-owned land:

Town 23 north, range 4 west—Section 4 west of Mead road; sections 5, 6, 7, and 8, entire; section 9, northwest ¼ of northwest ¼, south ½ of northwest ¼, and southwest ¼; sections 17, 18, and 19, entire; section 20, north ½; section 30, northwest ¼ west of county road.

Town 23 north, range 5 west—Sections 1 and 2, entire; section 3, north ¾ north of county road; section 11, northeast ¼; section 12, north ½; section 24, east ½ of south ¾; section 25, north ¾ of east ½.

Town 24 north, range 4 west—Sections 19, 20, 28, 29, 30, 31, and 32, entire; section 33 west of Mead road.

Town 24 north, range 5 west—Sections 22, 23, 24, 25, 26, and 27, entire; section 33, that part east of pipeline crossing in east ½ in northeast-southwest direction; section 34, that part east of pipeline; sections 35 and 36, entire.

History: 1954 ACS 51, p. 17, Eff. Aug. 15, 1967.

R 299.342 Use by motorized land equipment and motorboats.

Rule 2. From June 1, 1967, on the posted state-owned lands and marshes heretofore described:

(a) Motorized land equipment shall be confined to public roads and to department designated interior roads and parking areas, except under specific permits issued by the department of conservation.

(b) The launching of motor-driven boats from state-owned land to the impoundment shall be limited to those using 7½ brake horsepower or less.

History: 1954 ACS 51, p. 17, Eff. Aug. 15, 1967.

GAME DIVISION

STATE GAME AND WILDLIFE AREAS

R 299.345—R 299.349 Rescinded.

History: 1954 ACS 53, pp. 13, 14, Eff. Feb. 14, 1968; 1954 ACS 55, pp. 14-16, Eff. Aug. 14, 1968; rescinded 1954 ACS 72, p. 14, Eff. Aug. 16, 1972.

GREAT LAKES SUBMERGED LANDS

R 299.351—R 299.363 Rescinded.

History: 1954 ACS 7, pp. 19-21, Eff. Aug. 14, 1956; rescinded 1954 ACS 19, p. 12, Eff. Aug. 14, 1959.

R 299.371—R 299.381 Rescinded.

History: 1954 ACS 19, pp. 8-12, Eff. Aug. 14, 1959; rescinded 1954 ACS 51, p. 11, Eff. Aug. 15, 1967.

PROCEDURE FOR CONDUCTING HEARINGS

R 299.401—R 299.408 Rescinded.

History: 1944 ACS 37, p. 12; 1954 AC, pp. 1930, 1931; rescinded 1954 ACS 86, p. 45, Eff. Dec. 23, 1975.

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FISH DIVISION

COMMERCIAL FISHING LICENSE HEARINGS

R 299.431—R 299.436 Rescinded.

History: 1954 ACS 64, p. 22, Eff. July 1, 1970; rescinded 1954 ACS 86, p. 45, Eff. Dec. 23, 1975.

SUPERVISOR OF WELLS

OIL AND GAS OPERATIONS

R 299.441a—R 299.490 Rescinded.

History: 1954 ACS 8, pp. 5-14, Eff. Nov. 14, 1956; rescinded 1954 ACS 69, p. 39, Eff. June 21, 1971.

SPACING, DRILLING, DEEPENING, AND PLUGGING OF WELLS FOR NATURAL DRY GAS

(By authority of Act No. 326 of the Public Acts of 1937, as amended, being §319.51 et seq. of the Michigan Compiled Laws)

DRILLING

R 299.501 Permits.

Rule 1. No person shall drill, or begin the drilling of, any well for natural dry gas until the owner or his authorized representative has complied with the following requirements:

(a) Completely and accurately filled out, signed, and filed a written application on forms prescribed by the supervisor. Certification that provision has been made to furnish a derrick floor or ground elevation above sea level datum run by a registered surveyor shall accompany this applicaton. This elevation is to be filed with the supervisor within 14 days after the well is spudded.

(b) Filed a surety bond as hereinafter provided.

(c) Paid the fee required by law.

(d) Received and posted in a conspicuous place at the well location a written permit to drill the well.

History: 1954 ACS 8, p. 14, Eff. Jan. 1, 1957.

R 299.502 Transfer of permits.

Rule 2. (1) No permit is to be transferred to any other location or to any other person until the following requirements have been complied with:

(a) Should the person to whom a permit to drill a well for natural dry gas has been issued change the location prior to the drilling of the well, the permit is to be returned for cancellation, together with a new application for permission to drill, to the supervisor. No transfer fee is required but drilling is not to be started until the requested transfer has been approved by the supervisor and the new permit has been posted at the new location.

(b) Should the person who has obtained a permit to drill a well for natural dry gas dispose of his interest to a new owner before drilling is commenced, while the well is being drilled, or after it has been completed, a request for transfer of permit is to be submitted to the supervisor. The request for transfer of permit can be approved and the transfer completed only if the request has been properly prepared, including signatures by both the operator and the acquiring operator, and when the acquiring operator has filed suitable surety bond with the supervisor.

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(2) No permit shall be transferred when an owner, or his authorized representative, is not complying or has not complied with the provisions of Act No. 326 of the Public Acts of 1937, as amended, or the regulations or orders issued by the supervisor or the conservation commission.

History: 1954 ACS 8, p. 14, Eff. Jan. 1, 1957.

R 299.503 Surety bonds.

Rule 3. (1) Every person, owner, or producer who drills a well for natural dry gas shall file with the supervisor, on a form approved by the supervisor, a surety bond which has been executed by a responsible surety company authorized to do business in the state of Michigan. The liability on the bond is conditioned on compliance with the law, rules, regulations, or orders of the supervisor, and it shall continue until the well, or wells, are abandoned and completely plugged and the plugging is approved by the supervisor, or his authorized representative, and all logs, plugging records, or other pertinent information required by the law, or the rules, regulations, or orders of the supervisor, have been filed with him.

(a) Should the person, owner, or producer be in default in any particular relative to the condition or conditions of the bond, the supervisor shall look to the surety for immediate compliance and fulfillment of the full conditions thereof, and all expense in connection therewith shall be paid by the principal or surety.

(b) The person, owner, or producer may file a bond for a single well in the amount of $2,000.00, or a blanket bond for all wells in the amount of $5,000.00.

(2) A bond may be terminated when an owner disposes of his well, or wells, and the permits for the said well or wells have been transferred as provided in R 299.502. The supervisor will advise the surety on any bond when its liability under a bond may be formally terminated.

History: 1954 ACS 8, p. 15, Eff. Jan. 1, 1957.

R 299.504 Approved methods of preventing waste to be used.

Rule 4. Any person drilling for or producing natural dry gas shall use every possible precaution in accordance with the most approved method to stop and prevent waste of natural dry gas, oil, or possible combinations, in drilling and producing operations.

History: 1954 ACS 8, p. 15, Eff. Jan. 1, 1957.

R 299.505 Pits for drill cuttings.

Rule 5. Drill cuttings from wells drilled for natural dry gas are to be confined by a pit, or pits, of proper size and construction and located in close proximity to the well bore.

History: 1954 ACS 8, p. 15, Eff. Jan. 1, 1957.

R 299.506 Casing and sealing off formations.

Rule 6. (1) Every person, owner, or producer who drills a well for natural dry gas, or causes such a well to be drilled, shall case and seal off each oil, gas, brine, or fresh water stratum above the producing horizon to prevent effectively the migration of oil, gas, brine, or fresh water to other strata.

(2) After completion the casing used in the drilling and completing of any well for natural dry gas is not to be pulled from the well until approval for such removal has been received from the supervisor or his representative.

(3) The drilling mud used in wells drilled with rotary equipment is to be capable of sealing off each oil, gas, brine, or fresh water stratum above the producing horizon and of preventing "blow-outs" and flows of salt or fresh water.

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Such casing and sealing off and conditioning of drilling mud shall be effected in accordance with good field practice and tested in such manner and by such methods and means as may be prescribed or approved by the supervisor or his authorized representative.

(4) The amount of material to be used, when necessary to seal off permanently any oil, gas, brine, or fresh water, shall be specified and approved by the supervisor or his authorized representative.

(5) Wells to be drilled through reservoirs being operated for secondary recovery or for gas storage shall have the casing set through such reservoirs adequately cemented. Only rotary drilling equipment shall be used, with blow-out preventer installed, while drilling through gas storage reservoirs. The cementing procedure to be followed is to be approved by the supervisor or his authorized representative.

History: 1954 ACS 8, p. 15, Eff. Jan. 1, 1957.

R 299.507 Well head equipment.

Rule 7. (1) Wells drilled for natural dry gas with cable tools shall have the innermost string of casing equipped with an adequate master valve and securely anchored before drilling into any formation known likely to contain oil or gas.

(2) Wells drilled for natural dry gas with rotary tools shall have the innermost string of casing equipped with a blow-out preventer properly installed before drilling into any formation known likely to contain oil or gas. Requests for exception to this rule may be included in the application for permission to drill or may be submitted in writing to the supervisor. Such requests may be granted when they conform with good drilling practice and when wells are located where it is known conditions are not hazardous.

History: 1954 ACS 8, p. 16, Eff. Jan. 1, 1957.

R 299.508 Steel line measurements.

Rule 8. The depth to the top of key formations shall be determined by the use of a steel measuring line or other accurate method. Drill pipe measurements may be made on wells drilled with rotary equipment.

History: 1954 ACS 8, p. 16, Eff. Jan. 1, 1957.

R 299.509 Well records.

Rule 9. Every person, owner, or producer who drills a well for natural dry gas shall keep and preserve at the well being drilled accurate records of the drilling, reworking, or deepening of the well, showing all formations penetrated, casing used, and other pertinent information as may be required by the supervisor in connection with the drilling of the well. All such information shall be available to the supervisor or his authorized representative at all times. Such records shall be protected from damage or destruction from any preventable cause.

History: 1954 ACS 8, p. 16, Eff. Jan. 1, 1957.

R 299.510 Samples of drill cuttings.

Rule 10. Every person, owner, or producer who drills a well for natural dry gas other than a known pool well shall take and preserve adequate samples, properly identified, of the drill cuttings encountered. Adequate samples of the drill cuttings shall be taken and preserved during drilling at known pool wells when requested by the supervisor or his authorized representative. These samples are to be delivered to the supervisor or his authorized representative during drilling or on completion of the well.

History: 1954 ACS 8, p. 16, Eff. Jan. 1, 1957.

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R 299.511 Well log to be filed.

Rule 11. (1) Every person, owner, or producer who drills a well for natural dry gas shall file with the supervisor within 30 days after the drilling, shooting, and testing incidental to the completion of the well have been accomplished, a complete log or record of the well duly signed on forms prescribed by the supervisor. This shall be done although samples of the drill cuttings have been taken and saved.

(2) A proper log on any well should include all normally recorded information on the following:

(a) Depth to and thickness of water-bearing sands and gravels in the glacial drift, including fill-up and volumes of such water.

(b) Lithology of formations penetrated, including color, hardness, and character of rock.

(c) A record of all oil, gas, and salt waters encountered, including fill-up, volumes, and pressures.

(d) Data on drill stem tests.

(e) Generalized core descriptions.

(f) Data on perforating, acidizing, fracturing, shooting, and testing.

(3) A copy of all electric or radiation type logs, when they are run, shall be filed with the supervisor.

(4) All logs on any well may be kept confidential for a period of 90 days after completion of the well by filing a written request with the supervisor.

History: 1954 ACS 8, p. 16, Eff. Jan. 1, 1957.

R 299.512 Deepening and rework operations.

Rule 12. (1) Every person, owner, or producer who desires to deepen a well below the depth at which it was completed originally shall file an application for permission to deepen with the supervisor. The application shall set forth in detail the new proposed total depth and the plan for casing and sealing off any oil, gas, brine, or fresh water strata to be found, or expected to be found, in the deepening operation. A deepening permit is to be issued when the application has been approved by the supervisor. Actual deepening operations are not to be started until the deepening permit has been posted at the well location.

(2) Every person, owner, or producer who deepens a well shall file with the supervisor a complete log of the deepening, duly signed, on forms prescribed by the supervisor. The log or record shall be filed within 30 days after the deepening, shooting, initial acidizing, and testing have been completed. The log is to be filed even though samples of the drill cuttings have been taken and saved.

(3) Every person, owner, or producer who desires to rework a well by plugging back, converting for brine disposal, converting for secondary recovery, repressuring or flooding with gas or water, converting for use as an observation well, stripping of casing strings, multiple completion, or otherwise changing the status of a well, shall file an application for permission to rework with the supervisor. The application shall set forth in detail the kind of rework operation to be accomplished and the plan for protecting all oil, gas, brine, or fresh water strata which the well has penetrated. A copy of the application shall be mailed to all offset operators at least 10 days prior to the approval of a rework application for disposal of salt water or fluid injection into the producing formation. The rework operation may be commenced only after the supervisor or his authorized representative has approved the application.

(4) Every person, owner, or producer who changes the status of a well by rework operation shall file with the supervisor a complete well rework record on

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forms prescribed by the supervisor. The well rework record shall be filed within 30 days after the final completion of the rework operation.

History: 1954 ACS 8, p. 17, Eff. Jan. 1, 1957.

R 299.513 Producing from different strata through same casing string.

Rule 13. No well shall be permitted to produce either oil or gas from different pools through the same string of casing without first receiving written permission from the supervisor. Permission shall be given only after a full and complete presentation of all the facts and reasons for so doing and when it has been shown that waste will not be committed by such production methods. Therefore, if a pool should be encountered bearing either oil or gas and it is desired to drill deeper in search of other oil or gas bearing pools, the pool first penetrated, and likewise each and every pool in turn, shall be closed and sealed separately.

History: 1954 ACS 8, p. 17, Eff. Jan. 1, 1957.

R 299.514 Location and spacing of wells.

Rule 14. The following are the requirements for the location and spacing of wells drilled for natural dry gas, except in specifically designated areas or to specific geological formations for which special location and spacing rules have been issued or may be issued in the future:

(a) The drilling unit for wells drilled for natural dry gas in Michigan shall be a 160-acre tract. The boundary lines of any such tract shall be approximately square and shall have been formed of 4 quarter-quarter sections contiguous to one another. The boundary lines of the tract shall conform to lines of governmental subdivision, allowances being made for the difference in size and shape of sections in accordance with the official survey plats of the U.S. bureau of land management. Should any well discover natural dry gas while drilling in search of oil on a tract of lesser size than 160 acres, the pooling of the necessary tracts may be commenced after such discovery is made, but before production is permitted.

(b) The location of an exploratory well (any well located 2 or more miles from any well capable of producing natural dry gas) shall be in the approximate center of the 160-acre drilling unit. The location of a development well (any well located less than 2 miles from any well capable of producing natural dry gas) shall be in the approximate center of the 160-acre drilling unit conforming to the drilling unit established by the well or wells drilled capable of producing natural dry gas.

(c) Should an application be made for a permit to drill a well for natural dry gas on a tract of land less in area than 160 acres, and lying wholly or partially within a drilling unit, the person applying for the permit shall submit a certified statement that a reasonable effort has been made to pool his lease or tract, or part thereof, with that of others to form a full drilling unit, and that such effort has failed. The certified statement shall give the names and addresses of the persons owning portions of the proposed unit, the amounts and descriptions of acreage involved, the proposals made to pool the acreage in the proposed unit, and all other pertinent data of the endeavor. The supervisor may issue a permit to drill the tract only after it has been determined that the applicant has made a reasonable effort to pool the portions of the acreage to form a regular drilling unit and that such effort has failed.

(d) Special rules for any specific natural dry gas field may be issued after a public hearing which may be called upon written application to the supervisor of wells.

History: 1954 ACS 8, p. 17, Eff. Jan. 1, 1957.

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R 299.515 Drilling to completion.

Rule 15. The owner or operator of a drilling well which has been shut down for a period of at least 1 year, or if such well may be causing waste, contamination, or pollution shall, upon request of the supervisor or his authorized representative, show cause to the supervisor or his authorized representative why the well should not be considered as an abandoned well and subject to the provisions herein which apply to abandoned wells.

History: 1954 ACS 8, p. 18, Eff. Jan. 1, 1957.

PRODUCTION

R 299.521 Disposal of brine or salt water.

Rule 21. Brine or salt water produced in the drilling for or production of natural dry gas shall not be run to earthen reservoirs or ponds, except for such reasonable time and under conditions as may be approved in writing by the supervisor or his authorized representative, after which it shall be returned to some underground formation or otherwise disposed of, as approved by the supervisor, where it cannot do damage to any fresh water, oil, gas, or other minerals.

History: 1954 ACS 8, p. 18, Eff. Jan. 1, 1957.

R 299.522 Use of natural gas.

Rule 22. Natural gas in its natural state shall not be used in engines or pumps where its natural pressure is the main or direct operating force, unless the exhaust or discharge is properly conserved.

History: 1954 ACS 8, p. 18, Eff. Jan. 1, 1957.

R 299.523 Production of carbon black.

Rule 23. The production of carbon black within the state of Michigan by the process of burning natural gas is prohibited except on written approval of the supervisor.

History: 1954 ACS 8, p. 18, Eff. Jan. 1, 1957.

PLUGGING WELLS

R 299.531 Application for permission to plug.

Rule 31. (1) No person, owner, or producer shall begin to plug any well until he first shall have filed with the supervisor, or his authorized representative, an application for permission to abandon and has received permission and plugging instructions to proceed with the necessary work.

(2) The application shall give a detailed statement of:

(a) The present condition of the well, including size and lengths of all casing, amount of mud or cement used on such casings, depth to the top of all formations, depths where water, oil, or gas were encountered, total depth, and any other pertinent information.

(b) The proposed work, including the length and depth of plugs and plans for mudding, cementing, and removing casing.

(c) The equipment to be used in plugging.

History: 1954 ACS 8, p. 19, Eff. Jan. 1, 1957.

R 299.532 Starting operations.

Rule 32. Plugging operations on all dry or abandoned wells shall start within 30 days after drilling or production operations cease and shall be prosecuted with

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diligence. The supervisor or his authorized representative, after having received a written request and found that the request is reasonable, may grant an extension of time for starting plugging operations.

History: 1954 ACS 8, p. 19, Eff. Jan. 1, 1957.

R 299.533 Method and material to be used in plugging.

Rule 33. (1) All oil, gas, or water shall be confined to the strata in which it occurs by the use of mud-laden fluid, cement, or a combination of both, or by some other suitable material. The amount, type, and kind of material and the method of placement shall be prescribed and approved by the supervisor or his authorized representative.

(2) Following the completion of plugging to the surface, the owner shall fill the cellar and all pits and excavations, remove or eliminate debris, and eliminate all conditions contributing to the hazard of fire or pollution. These corrective and clean-up measures are to be accomplished within 18 months after completion of the plugging to the surface.

History: 1954 ACS 8, p. 19, Eff. Jan. 1, 1957.

R 299.534 Converting abandoned well to fresh water well.

Rule 34. A well drilled for natural dry gas may be recompleted and saved as a fresh water well provided:

(a) It may be used safely as such.

(b) There will be no waste of the fresh water resource.

(c) The operator plugs the well satisfactorily to the base of the fresh water strata.

(d) The operator and property owner file on forms prescribed by the supervisor a joint request that the well be saved and converted as a fresh water well.

(e) The operator completes the fresh water well in a condition acceptable to the supervisor or his authorized representative.

(f) The property owner thereafter will accept full responsibility for the fresh water well.

History: 1954 ACS 8, p. 19, Eff. Jan. 1, 1957.

R 299.535 Plugging records to be filed.

Rule 35. Every person, owner, or producer who plugs a well shall file with the supervisor, within 30 days after the plugging work is finished, a complete record of the plugging work, signed and sworn to on forms prescribed by the supervisor.

History: 1954 ACS 8, p. 19, Eff. Jan. 1, 1957.

PREVENTION OF FIRES, POLLUTION, AND DANGER TO OR DESTRUCTION OF PROPERTY OR LIFE

R 299.541 Well locations to be cleared.

Rule 41. The area around every well drilling operation shall be cleared of brush, slash, weeds, and other inflammable material for a radius of 75 feet, using the well as the center point. The supervisor, or his authorized representative, may, if conditions warrant, approve the clearance of a smaller area, and may also require the construction of a fire line around the outer edge of the cleared area. Material resulting from the clearing operations shall be disposed of in a manner approved by the supervisor, or his authorized representative, prior to the commencement of any drilling operation.

History: 1954 ACS 8, p. 20, Eff. Jan. 1, 1957.

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R 299.542 Slush pit to be filled in.

Rule 42. Slush pits and well cellars at all wells shall be filled and levelled or covered within a reasonable time after the completion of the well.

History: 1954 ACS 8, p. 20, Eff. Jan. 1, 1957.

R 299.543 Safety signs.

Rule 43. Safety signs, approved by the department of conservation, shall be posted by the operator or transportation agency in conspicuous places around each drilling operation and producing well, storage tank, and transportation facility whenever special hazards to life or property exist.

History: 1954 ACS 8, p. 20, Eff. Jan. 1, 1957.

R 299.544 Wells to be identified.

Rule 44. Every well shall be identified by a sign, posted on the derrick, if possible, and otherwise on a substantial post not more than 20 feet from such well, and signs shall be of durable construction and the lettering thereon shall be kept in good condition and shall be large enough to be legible under normal conditions at a distance of 50 feet. The wells on each lease or property shall be numbered consecutively, beginning with no. 1, unless some other system of numbering was adopted by the owner prior to the adoption of the rules and regulations. Each sign shall show the number of the well; the name of the lease (which shall be different for each lease); the name of the lessee, owner, or operator; and the location by quarter-quarter, section, township, and range.

History: 1954 ACS 8, p. 20, Eff. Jan. 1, 1957.

GAME AND LAW ENFORCEMENT DIVISIONS

LICENSING AND OPERATION OF SHOOTING PRESERVES

R 299.601—R 299.615 Rescinded.

History: 1954 ACS 13, pp. 38-40, Eff. Feb. 14, 1958; rescinded 1954 ACS 52, p. 36, Eff. Nov. 15, 1967.

SHOOTING PRESERVES

R 299.621—R 299.636 Rescinded.

History: 1954 ACS 20, pp. 11-13, Eff. Nov. 14, 1959; 1954 ACS 52, pp. 35, 36, Eff. Nov. 15, 1967; rescinded 1954 ACS 69, p. 39 Eff. Nov. 30, 1971.

SHOOTING PRESERVES

(By authority conferred on the commission of natural resources by section 10 of Act No. 134 of the Public Acts of 1957 and sections 9 and 252 of Act No. 380 of the Public Acts of 1965, as amended, being §§317.310, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.641 Shooting preserves; enclosure and contiguity.

Rule 1. Premises shall not be licensed as a shooting preserve unless they are enclosed and contained in a single block or tract of contiguous lands, except that the director of natural resources may license lands consisting of 2 or more enclosed single disconnected blocks or tracts when, in his judgment, it appears that it may be operated within the intent of the act authorizing preserves.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971.

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R 299.642 Boundary signs.

Rule 2. The department of natural resources shall furnish boundary signs of such size and such wording as determined by the director.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971.

R 299.643 Fees.

Rule 3. An applicant shall pay the required fee upon filing his application.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971.

R 299.644 Acreage limit per county.

Rule 4. Licenses shall be limited so as not to result in total acreage licensed as shooting preserves in any 1 county being more than 1% of the gross land area of the county.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971.

R 299.645 Denial of licenses.

Rule 5. A license shall be denied when, in the opinion of the director, it appears probable that wild ducks or an excessive number of wild pheasants or wild bobwhite quail would be killed on the premises for which the license is applied for or when, for any other reason, the director determines that the issuance of a license is not in the public interest.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971.

R 299.646 Birds which may be hunted on preserves.

Rule 6. Pheasants (Phasianus), Hungarian partridges, bobwhite quail, mallard ducks and nonnative upland game birds not established in the wild in the state may be released and shot on licensed preserves. Species of waterfowl, other than mallard ducks flown from release towers or similar stations, may not be hunted or killed on the lands of a preserve licensed to shoot ducks.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971; 1954 ACS 76, p. 10, Eff. Aug. 11, 1973.

R 299.647 Open seasons.

Rule 7. The shooting season for the taking of pheasants (Phasianus), Hungarian partridges, bobwhite quail, and mallard ducks on licensed preserves opens on August 15 and closes on April 30. The nonnative birds specified in R 299.646 may be shot throughout the season.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971; 1954 ACS 76, p. 10, Eff. Aug. 11, 1973.

R 299.648 Pheasants, Hungarian partridges, and quail released before open season.

Rule 8. Pheasants (Phasianus) of either sex, Hungarian partridges, and bobwhite quail, when released not earlier than 2 weeks prior to the opening of the season, may be taken in numbers not to exceed the total number released.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971; 1954 ACS 76, p. 10, Eff. Aug. 11, 1973.

R 299.649 Nonnative upland game birds and mallard ducks.

Rule 9. All nonnative upland game birds not established in the wild in this state released on licensed preserves may be taken either by shooting or by recapture while on the preserve for further release purposes. All mallard ducks, properly marked, shall be flown from release towers or similar stations for pass shooting and may be taken either by shooting or by recapture while on the preserve for

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further release purposes. Such ducks shall not be hunted or shot within 40 yards of a lake, stream, or pond which may be used on wild waterfowl and within 80 yards it is unlawful to shoot toward the lake, stream, or pond, and blinds shall be so constructed and arranged as to make it impossible to do so.

History: 1954 ACS 69, p. 37, Eff. Nov. 30, 1971.

R 299.650 Recapture of released pheasants, Hungarian partridges, and quail.

Rule 10. Released pheasants, Hungarian partridges, and quail may be recaptured for further release purposes by an operator anywhere on his licensed premises in any county except those located south of Muskegon, Newaygo, Oseola, Clare, Gladwin, and Arenac counties where recapturing is limited to within 50 feet of the principal bird holding pens.

History: 1954 ACS 69, p. 38, Eff. Nov. 30, 1971; 1954 ACS 76, p. 10, Eff. Aug. 11, 1973.

R 299.651 Training of hunting dogs.

Rule 11. Any person, with permission of the licensed operator, may train hunting dogs on and shoot in the training process, from July 15 to the closing dates of the respective open seasons, all species of birds permitted to be taken under authority of a shooting preserve license. Dogs being so trained or used in hunting shall be confined to the premises of the licensed area at all times.

History: 1954 ACS 69, p. 38, Eff. Nov. 30, 1971.

R 299.652 Feeding of birds in winter.

Rule 12. During the period January 1 to March 15 in each year, a licensee shall not put out, or allow or permit to be put out, on the lands included in his licensed shooting preserve any shelled or husked or unhusked corn, wheat, or other grains or feeds for the purpose of luring, attracting, enticing, or feeding any of the birds permitted to be taken under his shooting preserve license, except for the purpose of feeding on such areas and during such periods as may be authorized in writing by the director of natural resources. This rule does not include properly shocked grain, standing crops, or grains found scattered solely as a result of normal agricultural planting or harvesting, nor does it include the feeding of birds retained in captivity.

History: 1954 ACS 69, p. 38, Eff. Nov. 30, 1971.

R 299.653 Sources of birds to be released.

Rule 13. Legally protected species of birds to be released on a licensed shooting preserve or sold to nonhunters, restaurants, hotels, or clubs may be propagated and reared by a licensee as authorized by section 3 of Act No. 134 of the Public Acts of 1957, as amended, being §317.303 of the Michigan Compiled Laws, or may be lawfully procured from other sources. If the director of natural resources finds that any birds are diseased or otherwise unfit for release and notifies the operator of such findings, the operator shall not release or permit or allow the release of any such birds.

History: 1954 ACS 69, p. 38, Eff. Nov. 30, 1971.

R 299.654 Marking and banding of birds.

Rule 14. The director of natural resources may require that, before any birds are released, each of them shall be marked or have leg bands attached in a manner specified, and the operator shall maintain and furnish to the director such records and information pertaining thereto as may be required. All required bands or other marking devices shall be furnished by the director.

History: 1954 ACS 69, p. 38, Eff. Nov. 30, 1971.

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R 299.655 Reports of released birds; tags on birds shot.

Rule 15. Before any birds are taken under authority of a shooting preserve license, the operator shall certify to the director of natural resources the number of each species of birds to be, or which have been, released and the date of release, and shall procure from the director the allowable number of identification tags required by law to be affixed to all birds shot on such preserve. The identification tags shall be affixed in a permanent manner to the leg of the bird or the wrapper or package containing the carcass and shall remain thereon until the bird is prepared for consumption. Field or market dressed carcasses, parts thereof, eggs, and crated specimens removed from licensed shooting preserves by nonhunters shall be identified with shipping tags or identification tags as provided in department rules governing game breeders.

History: 1954 ACS 69, p. 38, Eff. Nov. 30, 1971.

R 299.656 Disposition of boundary signs, shipping tags, and identification tags.

Rule 16. When a license expires or is revoked or denied, the former licensee shall return surplus identification tags and shipping tags to the department of natural resources and remove all shooting preserve signs from the formerly licensed area within 15 days after termination of the license. The department shall refund a sum equal to the value of tags. If a former licensee does not remove the boundary signs and cannot be located, the landowner shall remove the signs within 30 days after termination of the shooting preserve license.

History: 1954 ACS 69, p. 38, Eff. Nov. 30, 1971.

R 299.657 Inspection of premises, operations, and records.

Rule 17. All premises and operations, including the books and records pertaining thereto and also including a count of birds certified to for release, shall be subject to inspection at any reasonable time by the director of natural resources or his authorized representatives.

History: 1954 ACS 69, p. 39, Eff. Nov. 30, 1971.

R 299.658 Copies of records for director of natural resources.

Rule 18. The director of natural resources may require that monthly reports and an annual report and a notarized copy of all records required by section 8 of Act No. 134 of the Public Acts of 1957, as amended, being §317.308 of the Michigan Compiled Laws, be submitted to him by each licensee on or before July 15 in each year.

History: 1954 ACS 69, p. 39, Eff. Nov. 30, 1971.

R 299.659 Rescission.

Rule 19. Rules 1 to 16 of the rules entitled "Shooting Preserves," being R 299.621 to R 299.636 of the Michigan Administrative Code and appearing on pages 1203 to 1205 of the 1959 Annual Supplement to the Code and pages 4161 and 4162 of the 1967 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 69, p. 39, Eff. Nov. 30, 1971.

Editor's note: R 299.621 to R 299.636, referred to in this rule, appeared in 1954 ACS 69, p. 39, as R 299.601 to R 299.615 due to a typographical error.

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WILDLIFE DIVISION

STATE GAME AND WILDLIFE AREAS

(By authority conferred on the commission of natural resources by sections 2 and 3a of Act No. 17 of the Public Acts of 1921, as amended, and by sections 9 and 252 of Act No. 380 of the Public Acts of 1965, as amended, being §§299.2, 299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.661 Areas A and B.

Rule 1. (1) Beginning September 1, 1972, use of state-owned land or water within the areas described in these rules shall be in accordance with R 299.666, in addition to complying with the general rules for state lands other than state parks and recreation areas.

(2) Allegan state game area, Allegan county.
T 2 N, R 14 W—sections 4 to 6 and 8 to 10.
T 3 N, R 14 W—sections 29 to 33.
T 3 N, R 15 W—sections 15 and 22 to 27.
T 2 N, R 15 W—sections 7, 8, 17 to 20, 26 to 28, 34 and 35.
T 2 N, R 16 W—sections 12, 13 and 24.

(3) AuTrain waterfowl management area, Alger county.
T 45 N, R 21 W—sections 1 to 3, 10 to 15, 22 to 27 and 34 to 36.
T 44 N, R 21 W—sections 1 to 3, 10 and 11.

(4) Baraga Plains waterfowl management area, Baraga county.
T 50 N, R 34 W—sections 28 and 34.
T 49 N, R 34 W—sections 3 to 10, 15 to 22, 28 and 30 to 33.
T 48 N, R 34 W—sections 2, 4 and 6.

History: 1954 ACS 72, p. 12, Eff. Aug. 16, 1972.

R 299.662 Areas C to F.

Rule 2. (1) Crow Island state game area, Saginaw county.
T 13 N, R 5 E—sections 28, 29, 32 and 33.
T 12 N, R 5 E—sections 4 and 5.
Crow reserve lying easterly of highways M-13 and I-75.

(2) Fish Point wildlife area, Tuscola county.
T 15 N, R 8 E—sections 9 to 16, 19 to 23, 29 and 30.

History: 1954 ACS 72, p. 13, Eff. Aug. 16, 1972.

R 299.663 Areas L and M.

Rule 3. (1) Lapeer state game area, Lapeer county.
T 8 N, R 10 E—sections 13 and 24.
T 8 N, R 11 E—sections 18 and 19.

(2) Maple River state game area, Gratiot county.
T 9 N, R 2 W—sections 27 to 29.

(3) Munuscong bay waterfowl management area, Chippewa county.
T 44 N, R 2 E—section 7.
T 44 N, R 1 E—sections 1 to 3, 10 to 15, 17 and 22 to 25.

(4) Muskegon river state game area, Muskegon county.
T 11 N, R 15 W—sections 32 to 35.
T 10 N, R 15 W—sections 2 to 10.
T 10 N, R 16 W—sections 1 to 3 and 8 to 12.

History: 1954 ACS 72, p. 13, Eff. Aug. 16, 1972.

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R 299.664 Areas N to P.

Rule 4. (1) Nayanquing Point state game area, Bay county.
T 16 N, R 5 E—sections 7, 18 and 19.
T 16 N, R 4 E—sections 13 and 23 to 26.
(2) Pointe Mouillee state game area, Wayne and Monroe counties.
T 5 S, R 10 E—sections 24 to 26, 35 and 36.
T 5 S, R 11 E—sections 30 and 31.
T 6 S, R 10 E—sections 1, 2 and 11.
(3) Portage Marsh, Delta county.
T 38 N, R 22 W—sections 6 and 7.
T 38 N, R 23 W—sections 1 and 12.

History: 1954 ACS 72, p. 13, Eff. Aug. 16, 1972.

R 299.665 Areas S and T.

Rule 5. (1) St. Clair Flats wildlife areas, St. Clair county, consisting of the following:

(a) Harsens island which is that portion of private claims lots, 2 to 5 lying east of Cottage lane, southerly of Krispen, Columbine and LaCroix roads and westerly of state highway M-154; and all surveyed interior lands and waters lying southwesterly of the private claims and between the South channel and Middle channel.

(b) Dickinson island which is all that part of Dickinson island lying south of the north line of lots 4 to 17, Dickinson island land company's plat and south of the north line of lots 4 to 17, extended to the Snibora channel on a bearing of north 73° 47′ 30″ west, except lots 1415 to 1533, Dickinson island land company's plat.

(2) Seney waterfowl management area, Schoolcraft county.
T 46 N, R 14 W—sections 22, 23, 25 to 28 and 33 to 36.
T 46 N, R 13 W—sections 32 and 33.
T 45 N, R 13 W—sections 3 to 5, 9 to 11, 14 to 16 and 22 to 27.
(3) Shiawassee river state game area, Saginaw county.
T 11 N, R 3 E—sections 13 to 15, 21 to 28 and 32 to 35.
T 10 N, R 3 E—sections 2 to 4 and 9 to 11.
(4) Sturgeon river sloughs waterfall management area, Houghton and Baraga counties.
T 54 N, R 33 W—sections 32 to 34.
T 53 N, R 33 W—sections 1 to 4, 9, 10, 12, 13, 16, 20, 21, 28, 29 and 31 to 33.
T 52 N, R 33 W—sections 3 to 5, 9, 16, 17 and 19 to 21.
(5) Tobico Marsh state game area, Bay county.
T 15 N, R 4 E—sections 13, 14, 24 and 25.
T 15 N, R 5 E—sections 18, 19 and 30.

History: 1954 ACS 72, p. 13, Eff. Aug. 16, 1972.

R 299.666 Prohibited acts.

Rule 6. On the state-owned lands in the described areas in these rules a person shall not:

(a) Hunt or shoot from a dike, road, trail or safety zone posted against such use.

(b) Enter an area posted "Wildlife Refuge—Do Not Enter" without proper written permission.

(c) Enter an area posted "Retrieving Zone Only—No General Entry" except to retrieve downed game, lawfully taken.

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(d) On an area posted "State Game Area—Hunting by Permit Only," construct or use a shooting pit or construct, erect, or use a blind other than a temporary blind constructed of herbaceous vegetation such as cattails, or a blind that is readily portable and is removed at the end of the person's daily hunt; except those pits or blinds located and constructed by the department of natural resources for public use.

(e) Possess or use firearms or bows and arrows during the period from the end of the rabbit season to the opening date of the migratory bird hunting season on any area posted against such use, without proper written permission.

(f) Trap on an area posted "State Game Area—Hunting by Permit Only" without proper written permission.

(g) Fish on a posted area forbidding fishing.

(h) Train dogs between April 1 and August 31 on a posted area forbidding the training of dogs.

(i) Use a motorboat, airboat, or amphibious vehicle on an area posted "State Game Area—Hunting by Permit Only," without proper written permission.

(j) Enter state-owned land or water posted "State Game Area—Hunting by Permit Only" during a period of the waterfowl hunting season specified by the director of the department of natural resources, hereinafter referred to as the director, except under authority of proper written permission.

History: 1954 ACS 72, p. 14, Eff. Aug. 16, 1972.

R 299.667 Permits.

Rule 7. (1) "Proper written permission" means a written permit issued by the director or his authorized representative.

(2) A permit shall be of 2 parts:

(a) A form which is properly filled out by the hunter and validated by the department of natural resources.

(b) An identifying tag that shall be carried by the hunter while in the permit only area.

(3) A person shall not hunt in a location other than that specified on his permit.

(4) The director may determine the number of permits to be issued in total and per hunter. A person shall not apply for more than the number of permits authorized per hunter.

(5) A permittee shall return the permit upon the expiration date designated in the permit. If directed on the permit, the permittee shall present for examination all game taken and furnish other information about his hunting as may be requested.

(6) The director may determine the daily hunting hours; the permissible gauges of shotguns, shot shell loadings, and number of shells in possession; and rules governing the possession and use of dogs.

History: 1954 ACS 72, p. 14, Eff. Aug. 16, 1972.

R 299.669 Rescission.

Rule 9. Rules entitled "Shiawassee River State Game Area" and "State Game and Wildlife Areas," as amended, being R 299.345 to R 299.349 of the Michigan Administrative Code and appearing on page 4160 of the 1967 Annual Supplement to the Code and pages 4682 and 4683 of the 1968 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 72, p. 14, Eff. Aug. 16, 1972.

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LAW ENFORCEMENT DIVISION

SHOOTING RANGES ON STATE-OWNED LANDS

(By authority conferred on the commission of natural resources by sections 2 and 3a of Act No. 17 of the Public Acts of 1921, as amended, and sections 9 and 252 of Act No. 380 of the Public Acts of 1965, as amended, being §§299.2, 299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.671 Definitions.

Rule 1. (1) "Approved targets" means paper targets and clay targets.

(2) "Designated shooting ranges" means shooting ranges designated by an order of the director and posted for such use.

(3) "Director" means the director of the department of natural resources.

(4) "Litter" means any rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris, or other foreign substances of every kind and description.

(5) "Range officer" means a person placed in charge of a designated shooting range by the director or his authorized representative.

(6) "Written permission" means a written permit issued by the director, his authorized representative or range officer.

History: 1954 ACS 80, p. 12, Eff. Sept. 12, 1974.

R 299.672 Designated shooting ranges on state-owned lands; unlawful acts.

Rule 2. At designated shooting ranges on state parks and recreation areas, state game areas, and other lands and property under the control of the commission of natural resources, including, but not limited to, the Rose lake wildlife research center, the Pointe Mouillee state game area, the Sharonville state game area, the Bald mountain recreation area, the Ortonville recreation area, the Pontiac recreation area, the Proud lake recreation area, the Rochester-Utica recreation area and the Algonac state park, a person shall not:

(a) Use or occupy designated shooting ranges, except during the hours of 9:00 a.m. and 6:00 p.m., local prevailing time, or as posted, without written permission.

(b) Use or discharge a firearm containing more than 1 round without written permission, except shotguns at shotgun ranges with automatic skeet or trap equipment.

(c) Use incendiary, explosive, or tracer ammunition.

(d) Use other than a hand held rifle or muzzle loader exceeding 70 caliber, or a shotgun with other than slug load or buckshot on the rifle range.

(e) Use other than clay targets, shotguns, or shot larger than BB on the skeet and trap shooting ranges.

(f) Use other than a pistol or revolver on a pistol range.

History: 1954 ACS 80, p. 13, Eff. Sept. 12, 1974.

R 299.673 Use of firearms on designated shooting ranges.

Rule 3. On a designated shooting range, a person shall not:

(a) Possess a loaded firearm, except at established shooting stations on the firing line.

(b) Discharge a firearm, except at established shooting stations at approved targets.

History: 1954 ACS 80, p. 13, Eff. Sept. 12, 1974.

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R 299.674 Archery ranges.

Rule 4. On designated archery ranges, a person shall not use:

(a) Other than a bow and arrow.

(b) Other than approved targets.

(c) Hunting broadhead arrows, except under written permission.

(d) A crossbow.

History: 1954 ACS 80, p. 13, Eff. Sept. 12, 1974.

R 299.675 Spectators.

Rule 5. Spectators are prohibited on the firing line of designated shooting ranges.

History: 1954 ACS 80, p. 13, Eff. Sept. 12, 1974.

R 299.676 Alcoholic beverages.

Rule 6. Alcoholic beverages are prohibited on designated shooting ranges.

History: 1954 ACS 80, p. 13, Eff. Sept. 12, 1974.

R 299.677 Litter.

Rule 7. A person shall not dump, deposit, place, throw, or leave litter, except in approved refuse containers.

History: 1954 ACS 80, p. 13, Eff. Sept. 12, 1974.

R 299.678 Range officer's authority.

Rule 8. The range officer shall have the authority to close the shooting range when, in his opinion, the safety of persons or property is endangered.

History: 1954 ACS 80, p. 13, Eff. Sept. 12, 1974.

FIELD DOG TRIAL AREAS

(By authority conferred on the commission of conservation by section 3a of Act No. 82 of the Public Acts of 1947, as amended, and by sections 9 and 252 of Act No. 380 of the Public Acts of 1965, being §§317.403a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.681 Grand Traverse field trial area.

Rule 1. The Grand Traverse field trial area is located in the north ½ of the southeast ¼, southwest ¼ of southeast ¼, and southeast ¼ of southwest ¼, section 21, town 26 north, range 11 west. On this area, no person shall hunt for, take or attempt to take snowshoe hares or cottontail rabbits for a period of 5 years.

History: 1954 ACS 56, p. 8, Eff. Nov. 14, 1968.

R 299.699 Penalties.

Rule 19. Violation of these rules is punishable by a fine of not more than $100.00 and costs of prosecution, or by imprisonment in a county jail for not more than 90 days, or both.

History: 1954 ACS 56, p. 9, Eff. Nov. 14, 1968.

FISHERIES DIVISION

USE OF TRAWLS

(By authority of Act No. 218 of the Public Acts of 1955, as amended, being §308.201 et seq. of the Michigan Compiled Laws)

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R 299.701 Permits for use of trawls.

Rule 1. The director of conservation may, in his discretion, issue permits to commercial fishermen licensed under the provisions of Act No. 84 of the Public Acts of 1929, as amended, being §308.1 et seq. of the Michigan Compiled Laws, to use trawls for taking chubs, herring, alewife, smelt, and such other species of fish as he may designate.

History: 1954 ACS 23, p. 18, Eff. Aug. 12, 1960.

R 299.702 Regulation of trawls.

Rule 2. The director of conservation may regulate the use of trawls, including, but not limited to, the kind and size thereof, the size of mesh therein, and the areas, depths of water, and time and manner in which they may be used.

History: 1954 ACS 23, p. 18, Eff. Aug. 12, 1960.

R 299.703 Illegal possession and disposition of protected species of fish.

Rule 3. No fish of any kind other than those permitted to be taken in trawls may be possessed aboard a boat engaged in trawling under authority of such permit. All species of fish, other than permitted to be taken in trawls, whether dead or alive, shall be immediately returned to the water.

History: 1954 ACS 23, p. 18, Eff. Aug. 12, 1960.

R 299.704 Conditions of permit; records, reports, and inspections.

Rule 4. The terms and conditions of any permit issued hereunder shall require permittee to:

(a) Maintain and submit such records and reports of his trawling operations as the director of conservation may require.

(b) Allow the director of conservation or his authorized representatives to enter into or upon any boat, dock, or fish house used in connection with the trawling activities of said permittee for the purpose of observing operations and examining equipment, records, and catch of fish.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 299.705 Amendment, suspension, revocation, and expiration of permits.

Rule 5. The director of conservation may amend or suspend any trawling permit so as to restrict or prohibit trawling in waters where species of fish, other than those authorized to be taken, are caught or killed, and may revoke the permit of any trawler who fails to abide by the terms and conditions of his permit. All trawling permits shall expire on December 31 following date of issue unless sooner revoked.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

COMMERCIAL FISHING

GILL NETS FOR TAKING CHUBS, HERRING, ALEWIFE, AND SMELT

(By authority of Act No. 218 of the Public Acts of 1955, as amended, and Act No. 88 of the Public Acts of 1943, as amended, being §308.201 et seq. and §24.71 et seq. of the Michigan Compiled Laws)

R 299.721 Permits for use of gill nets with meshes less than 2¼ inches extension measure.

Rule 1. Permits may be issued to commercial fishermen licensed under the provisions of Act No. 84 of the Public Acts of 1929, as amended, being §308.1 et

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seq. of the Michigan Compiled Laws, to use gill nets with meshes less than 2½ inches extension measure for taking chubs, herring, alewife, smelt, and such other species the director may designate.

History: 1954 ACS 24, p. 7, Eff. Nov. 12, 1960.

R 299.722 Regulation of use of small mesh gill nets.

Rule 2. The director of conservation, subject to prior approval of the conservation commission, may regulate the use of such nets, including, but not limited to, the size of mesh therein, the areas, depths of water, and time and manner in which they may be used.

History: 1954 ACS 24, p. 7, Eff. Nov. 12, 1960.

R 299.723 Amendment, supervision, revocation, and expiration of permits.

Rule 3. Such permit may be amended or suspended so as to restrict or prohibit the use of such gill nets in waters where species of fish, other than those authorized to be taken, are caught or killed, and may revoke the permit of any fisherman who fails to abide by the terms and conditions of the permit. All such permits shall expire on December 31 following date of issue unless sooner revoked.

History: 1954 ACS 24, p. 7, Eff. Nov. 12, 1960.

R 299.724 Notice to permittees.

Rule 4. No such permit shall be amended, suspended, or revoked by action of the director of conservation unless 5 days' prior notice in writing shall have been given to the permittee.

History: 1954 ACS 24, p. 7, Eff. Nov. 12, 1960.

USE OF NETS IN L'ANSE BAY FOR TAKING SMELT AND ALEWIFE

(By authority of Act No. 218 of the Public Acts of 1955, as amended, being §308.201 et seq. of the Michigan Compiled Laws)

R 299.731 Permits for use of nets for taking smelt and alewife in L'Anse bay.

Rule 1. The director of conservation may, in his discretion, issue permits to commercial fishermen licensed under the provisions of Act No. 84 of the Public Acts of 1929, as amended, to use pound, trap, and gill nets, as provided in subdivisions (d), (g), and (i) of section 5 of Act No. 84 of the Public Acts of 1929, as amended, being §308.5 of the Michigan Compiled Laws, for taking smelt and alewife.

History: 1954 ACS 29, p. 13, Eff. Feb. 14, 1962.

CLOSED SEASONS FOR TAKING WHITEFISH, YELLOW PERCH, AND BLACK CRAPPIE

R 299.741 Rescinded.

History: 1954 ACS 24, p. 8, Eff. Nov. 12, 1960; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

R 299.742 Rescinded.

History: 1954 ACS 24, p. 8, Eff. Nov. 12, 1960; rescinded 1954 ACS 47, p. 4, Eff. Aug. 14, 1968.

R 299.743 Rescinded.

History: 1954 ACS 24, p. 8, Eff. Nov. 12, 1960; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

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USE OF NETS IN MUNISING BAY FOR TAKING SMELT AND ALEWIFE

(By authority of Act No. 218 of the Public Acts of 1955, as amended, being §308.201 et seq. of the Michigan Compiled Laws)

R 299.751 Permits for the use of nets for taking smelt and alewife in Munising Bay of Lake Superior.

Rule 1. The director of conservation may, in his discretion, issue permits to commercial fishermen licensed under the provisions of Act No. 84 of the Public Acts of 1929, as amended, to use in Munising bay of Lake Superior pound, trap and gill nets, as provided in subdivisions (d), (g), and (i) of section 5 of Act No. 84 of the Public Acts of 1929, as amended, for taking smelt and alewife.

History: 1954 ACS 29, p. 13, Eff. Feb. 14, 1962.

LEGAL SIZE OF CATFISH

(By authority of Act No. 218 of the Public Acts of 1955, as amended, and Act No. 88 of the Public Acts of 1943, as amended, being §308.201 et seq. and §24.101 et seq. of the Michigan Compiled Laws)

R 299.761 Minimum legal size of catfish.

Rule 1. It shall be unlawful to market, have in possession, transport, or offer for sale at any time, whether caught within or without this state, any catfish of a length less than 15 inches, except that catfish of a length not less than 14 inches may be taken from Lake Erie, but such fish shall not be sold or offered for sale except at a dock or docks along said lake.

History: 1954 ACS 24, p. 8, Eff. Nov. 12, 1960.

LAKE TROUT IN LAKE SUPERIOR

(By authority of Act No. 218 of the Public Acts of 1955, as amended, being §308.201 et seq. of the Michigan Compiled Laws)

R 299.771 Closed commercial fishing season on lake trout in Lake Superior.

Rule 1. On and after June 1, 1962, lake trout shall not be taken from Lake Superior at any time, except as provided by Act No. 165 of the Public Acts of 1929, as amended, and by the director of conservation for scientific or cultural purposes as provided in section 10 of Act No. 84 of the Public Acts of 1929, as amended.

History: 1954 ACS 31, p. 16, Eff. Aug. 14, 1962.

R 299.772 Rescinded.

History: 1954 ACS 31, p. 16, Eff. Aug. 14, 1962; 1954 ACS 53, p. 14, Eff. Feb. 14, 1968; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

REMOVAL OF CLOSED COMMERCIAL FISHING SEASON AND MINIMUM LEGAL SIZE ON SUCKERS

(By authority of Act No. 218 of the Public Acts of 1955, as amended, being §308.201 et seq. of the Michigan Compiled Laws)

R 299.781 Suckers; open season.

Rule 1. No closed season: Suckers may be taken at any time from waters that are open to commercial fishing.

History: 1954 ACS 36, p. 10, Eff. Nov. 14, 1963.

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R 299.782 Suckers; legal size.

Rule 2. No minimum size: Suckers of any size may be taken, possessed, and sold commercially.

History: 1954 ACS 36, p. 10, Eff. Nov. 14, 1963.

LAKE TROUT IN LAKE MICHIGAN

(By authority conferred on the conservation commission by section 1 of Act No. 218 of the Public Acts of 1955, as amended, being §308.201 of the Michigan Compiled Laws)

R 299.791 Closed commercial fishing season on lake trout in Lake Michigan.

Rule 1. On or after October 1, 1965, lake trout shall not be taken from Lake Michigan at any time except as provided by Act No. 165 of the Public Acts of 1929, as amended, and by the director of conservation for scientific or cultural purposes as provided in section 10 of Act No. 84 of the Public Acts of 1929, as amended, being §308.10 of the Michigan Compiled Laws.

History: 1954 ACS 44, p. 30, Eff. Nov. 14, 1965.

R 299.792 Rescinded.

History: 1954 ACS 44, p. 31, Eff. Nov. 14, 1965; 1954 ACS 53, p. 14, Eff. Feb. 14, 1968; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

CLOSED SEASON ON WHITEFISH

(By authority of section 1 of Act No. 218 of the Public Acts of 1955, as amended, being §308.201 of the Michigan Compiled Laws)

R 299.801 Closed season on whitefish in Lakes Huron, Michigan, and Superior.

Rule 1. It shall be unlawful to take any whitefish from the waters of Lakes Huron, Michigan, and Superior from November 1 to November 30, inclusive.

History: 1954 ACS 44, p. 31, Eff. Nov. 14, 1965.

R 299.802 Rescinded.

History: 1954 ACS 44, p. 31, Eff. Nov. 14, 1965; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

YELLOW PERCH AND PIKE-PERCH

(By authority conferred on the commission of natural resources by section 1 of Act No. 218 of the Public Acts of 1955, as amended, and sections 9, 252, and 255 of Act No. 380 of the Public Acts of 1965, as amended, being §§308.201, 16.109, 16.352, and 16.355 of the Michigan Compiled Laws)

R 299.811, R 299.812 Rescinded.

History: 1954 ACS 44, p. 31, Eff. Nov. 14, 1965; rescinded 1954 ACS 47, p. 14, Eff. Aug. 14, 1966.

R 299.813 Pike-perch in Lake Erie; suspension of minimum size law.

Rule 3. The provisions of subsection (h) of section 14 of Act No. 84 of the Public Acts of 1929, as amended, being §308.14 of the Michigan Compiled Laws, having special reference to pike-perch (yellow pickerel) taken from Lake Erie, are suspended.

History: 1954 ACS 61, p. 22, Eff. Feb. 16, 1970.

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R 299.814 Rescinded.

History: 1954 ACS 47, p. 14, Eff. Aug. 14, 1966; 1954 ACS 53, p. 15, Eff. Feb. 14, 1968; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

R 299.815 Yellow perch; suspension of size or weight minimums; exception.

Rule 5. To remove the size and weight limits and closed seasons on yellow perch taken in the Michigan waters of the Great Lakes not otherwise closed to commercial fishing, the provisions of section 14(d) and section 6(1)(d) of Act No. 84 of the Public Acts of 1929, as amended, being §§308.14 and 308.6 of the Michigan Compiled Laws, remain suspended and are superseded by the following rules:

(a) On or after the effective date of these rules, the size or weight minimums for yellow perch remain suspended except for that area of Lake Huron described in R 299.1074(1)(f) and R 299.1074(1)(g). Size limits on perch for areas described in R 299.1074(1)(f) and R 299.1074(1)(g) are defined in R 299.1075(4).

(b) On or after June 1, 1966, the provisions of section 6(1)(d) of Act No. 84 of the Public Acts of 1929, with respect to yellow perch taken from the waters of the Great Lakes, are suspended.

History: 1954 ACS 47, p. 14, Eff. Aug. 14, 1966; 1954 ACS 93, p. 22, Eff. Dec. 1, 1977.

R 299.816 Yellow perch; rescissions.

Rule 6. Conservation commission orders effective September 11, 1960, and October 1, 1965, as these apply to yellow perch, being R 299.742, R 299.811, and R 299.812 of the Michigan Administrative Code, and appearing on page 1444 of the 1960 Annual Supplement to the Code and on page 31 of Supplement No. 44 to the Code, are rescinded.

History: 1954 ACS 47, p. 14, Eff. Aug. 14, 1966.

R 299.817 Area closed to commercial fishing; Saginaw bay and Lake Huron.

Rule 7. To establish an area seasonally closed to commercial fishing operations, the provisions of section 6 of Act No. 84 of the Public Acts of 1929, as amended, being §308.6 of the Michigan Compiled Laws, are extended to include the following regulation:

(a) It shall be unlawful from June 10 to September 10, inclusive, to place or use any gill or entrapment net or to engage in commercial fishing operations in water of a depth less than 18 feet along that portion of the Saginaw bay-Lake Huron shore lying between Harrisville on the north and AuGres Point on the south, more particularly described—the south line of section 12, T26N, R9E, extended east into the waters of Lake Huron near Harrisville shall constitute the northern boundary, and a line extended east from the most southerly part of section 6, T18N, R7E, shall constitute the southern boundary.

(b) This regulation shall in no way change existing special provisions regulating commercial fishing in bays and harbors.

History: 1954 ACS 47, p. 14, Eff. Aug. 14, 1966.

R 299.818 Rescinded.

History: 1954 ACS 47, p. 15, Eff. Aug. 14, 1966; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

SUSPENSION, SUPERSEDURE, AND EXTENSION OF STATUTORY PROVISIONS

(By authority conferred on the commission of conservation by section 1 of Act No. 218 of the Public Acts of 1955, as amended, and by sections 9 and 252 of Act No. 380 of the Public Acts of 1965, being §§308.201, 16.109, and 16.352 of the Michigan Compiled Laws)

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R 299.821 Suspension of statutory provisions.

Rule 1. The following provisions of Act No. 84 of the Public Acts of 1929, as amended, being §§308.1 to 308.51 of the Michigan Compiled Laws, are suspended:

(a) The provisions of subsections (h) and (i) of section 5 that no part of the lifting pot or crib of trap nets may exceed 15 feet in depth.

(b) The provisions of subsection (l) of section 5 pertaining to the depth of gill nets, effective July 1, 1967.

(c) The provision of subsection (c) of section 25 that a boat to which a license has been transferred may be fished only within a radius of 50 miles of the port designated in the original license.

History: 1954 ACS 50, p. 19, Eff. May 15, 1967.

R 299.822 Removal or relocation of large mesh gill nets.

Rule 2. The provisions of subsection (a) of section 5 of Act No. 84 of the Public Acts of 1929, as amended, are extended as follows: The director of the department of conservation may remove or cause to be removed or relocated any gill nets with meshes 4½ inches or larger used for the taking of whitefish, lake trout and yellow pickerel, when from inspection he determines that these nets are interfering with or taking more than 15% by weight of undersized whitefish, lake trout or yellow pickerel, or 15% by weight of any fish on which the season is closed or unlawful to take with commercial fishing devices.

History: 1954 ACS 50, p. 19, Eff. May 15, 1967.

R 299.823 Shoaling twine for large mesh trap nets.

Rule 3. The provisions of subsection (h) of section 5 of Act No. 84 of the Public Acts of 1929, as amended, designating shoaling twine, are suspended and superseded by the following regulation: In trap nets with meshes not less than 4½ inches in the lifting pot, used for taking whitefish and lake trout, meshes not more than 3¼ inches may be used (a) in that part of the tunnel inside the pot, (b) in the entire front of the pot, (c) in that portion of the bottom of the pot connected thereto for a distance up to 10 feet, but not to exceed ¼ of the length of the pot, and (d) in the connecting sides for the full depth of the pot and of a width up to 10 feet, but not to exceed ¼ of the length of the pot, for the purpose of shoaling fish.

History: 1954 ACS 50, p. 19; Eff. May 15, 1967.

R 299.824 Measurement of the mesh of trap nets, pound nets, and seines.

Rule 4. The provisions of subsection (1) of section 5 of Act No. 84 of the Public Acts of 1929, as amended, are extended by the following regulations effective July 1, 1967:

(a) The measurement of the mesh of trap nets, pound nets, and seines described in subsections (f), (g), (h), (i), (j) and (k) of section 5 of Act No. 84 of the Public Acts of 1929, as amended, shall be made with a 2-pound, 1- to 6-inch extension type gauge, constructed per specifications detailed in department of conservation drawing no. 0-264. Graduations of the calibrated scale of the gauge shall measure accurately to within plus or minus .005 of an inch, and the weighted cylinder of the gauge shall weigh 2 pounds, plus or minus ½ ounce. Prints of the drawing are on file at the department offices in Lansing and are available upon request. The gauge may be purchased from the department at cost.

(b) The mesh size of such nets shall be determined by extension measure between the extreme angles of the mesh. The measurement shall be made inside of the mesh knots.

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(c) The meshes to be gauged shall be at least 3 meshes removed from the side lines, and in gauging the mesh, the gauge shall be held by the suspension ring, with 1 mesh knot inserted above the upper string slot of a width nearest the diameter of the twine of the mesh being measured and with the opposite knot inserted below the lower identical size string slot. The weighted cylinder shall be allowed to settle slowly until the full 2 pounds of the cylinder is acting upon the mesh being measured for a period of at least 30 seconds.

(d) If the majority of 10 or more meshes selected at random by the conservation officer from any part of the net do not conform to the measurements provided by Act No. 84 of the Public Acts of 1929, as amended, or any valid rule adopted by the conservation commission under authority of Act No. 218 of the Public Acts of 1955, as amended, the net shall be deemed unlawful.

History: 1954 ACS 50, p. 19, Eff. May 15, 1967.

R 299.827 Closed commercial fishing season in Tahquamenon bay.

Rule 7. (1) It is unlawful during the period June 1 to November 30 for any person to catch or take fish of any species with net, set hook lines or other device of any kind except hook and line and spear as permitted by law from that part of Tahquamenon bay in Lake Superior described as follows: that area lying south and west of a line beginning at the northerly projection of land in the west ½ of section 9, town 47 north, range 5 west, and extending northerly to Tahquamenon island, thence northwesterly to the mouth of the Tahquamenon river in section 14, town 48 north, range 6 west.

(2) The director of conservation may authorize, by special permit, the use of nets, set hook lines or other devices for catching or taking fish within such area at any time for the purpose of fishery management.

History: 1954 ACS 53, p. 15, Eff. Feb. 14, 1968.

R 299.831 Rescinded.

History: 1954 ACS 53, p. 15, Eff. Feb. 14, 1968; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

R 299.841 Rescinded.

History: 1954 ACS 54, p. 34, Eff. May 15, 1968; 1954 ACS 58, p. 18, Eff. May 15, 1969; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

R 299.842 Rescinded.

History: 1954 ACS 54, p. 34, Eff. May 15, 1968; 1954 ACS 58, p. 19, Eff. May 15, 1969; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

R 299.843—R 299.845 Rescinded.

History: 1954 ACS 54, p. 35, Eff. May 15, 1968; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

R 299.846 Pike-perch in Lake Erie; closed seasons and closure to gill nets.

Rule 6. To prohibit commercial fishing for pike-perch, and the setting of gill nets, during the months of April and October, the provisions of subsection (1)(c) and subsection (2) of section 6 of Act No. 84 of the Public Acts of 1929, as amended, being §308.6 of the Michigan Compiled Laws, having reference to pike-perch taken from Lake Erie are suspended and superseded by the following rule:

On and after February 15, 1970, pike-perch (yellow pickerel) shall not be taken from Lake Erie, and no gill nets shall be used in Lake Erie, during the months of April and October.

History: 1954 ACS 61, p. 22, Eff. Feb. 16, 1970.

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COMMERCIAL FISHING LICENSES AND ZONES

R 299.881—R 299.890 Rescinded.

History: 1954 ACS 60, pp. 11, 12, Eff. Nov. 14, 1969; 1954 ACS 65, pp. 8-12, Eff. Dec. 1, 1970; 1954 ACS 71, pp. 21, 22, Eff. Mar. 21, 1972; 1954 ACS 76, pp. 10-14, Eff. Aug. 10, 1973; rescinded 1954 ACS 79, p. 40, Eff. June 5, 1974.

R 299.891 Rescinded.

History: 1954 ACS 65, p. 12, Eff. Dec. 1, 1970; 1954 ACS 71, p. 23, Eff. Mar. 21, 1972; rescinded 1954 ACS 76, p. 10, Eff. Aug. 10, 1973.

FOREST FIRE DIVISION

SLASH DISPOSAL

(By authority conferred on the department of conservation by Act No. 35 of the Public Acts of 1955 and section 253 of Act No. 380 of the Public Acts of 1965, being §§320.41 to 320.48 and 16.353 of the Michigan Compiled Laws)

R 299.901 Definitions.

Rule 1. As used in these rules, unless the context requires a different meaning:

(a) "Slash" means branches, tops, chunks, cull logs, uprooted stumps, and broken or uprooted trees left on the ground after cutting of forest growth, wind, or fire. It does not include useable forest products or chips.

(b) "Public highway" means a road or highway under the jurisdiction of the state highway department or any county road commission.

History: 1954 ACS 47, p. 15, Eff. Aug. 14, 1966.

R 299.902 Slash disposal in certain cases.

Rule 2. A cutting of forest growth resulting from the construction and maintenance of a public road, telephone, telegraph, or other communication line, power line, oil, and gas line, railroad that is a common carrier, or any other utility; or a cutting of forest growth on land bordering within 50 feet of a public highway shall be disposed of in accordance with these rules.

History: 1954 ACS 47, p. 15, Eff. Aug. 14, 1966.

R 299.903 Utilities.

Rule 3. (1) A utility shall clear its right-of-way of slash for a distance of 50 feet from the edge of the cleared portion of a public highway right-of-way wherever its line crosses public roads.

(2) A utility shall clear its right-of-way of slash where its line is constructed or maintained within the limits of a public highway right-of-way.

(3) If a utility right-of-way is parallel to and adjoins a public highway right-of-way, the utility shall dispose of all slash or shall move same to the edge of the utility right-of-way furthest removed from highway right-of-way. However, in neither case shall slash remain within 50 feet of the cleared portion of the public highway. If slash is placed in windrows on the furthest removed edge of utility right-of-way, they shall not exceed 20 feet at base or 8 feet in height. An adequate break shall be provided at each 200 feet to allow for fire control access.

(4) A utility shall clear its right-of-way completely of slash in developed resort and suburban areas.

History: 1954 ACS 47, p. 15, Eff. Aug. 14, 1966.

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R 299.904 Slash near highways.

Rule 4. Slash on land bordering within 50 feet of a public highway, resulting from land clearing, forest product harvest, etc., shall be disposed of in a manner that such inflammable material shall not constitute a fire hazard as prescribed by the director of conservation or his authorized representatives.

History: 1954 ACS 47, p. 15, Eff. Aug. 14, 1966.

R 299.905 National forests.

Rule 5. In national forests, the U.S. forest service shall prescribe the degree of slash removal and the removal of forest products from government-owned lands. In no case, however, shall rules for elimination of fire hazards provide less than the minimum requirements in these rules.

History: 1954 ACS 47, p. 16, Eff. Aug. 14, 1966.

R 299.906 Placing of slash.

Rule 6. Except as provided in R 299.903, slash may be placed in windrows not to exceed 20 feet at base or 8 feet in height. Slash shall not exceed 3 feet in height if scattered within the right-of-way. An adequate break shall be provided at each 200 feet to allow for fire control access.

History: 1954 ACS 47, p. 16, Eff. Aug. 14, 1966.

R. 299.907 Fires.

Rule 7. Burning of forest growth, slash, and debris shall be done under a department of conservation permit only, and when forest and grass lands are not endangered by such burning.

History: 1954 ACS 47, p. 16, Eff. Aug. 14, 1966.

NATURAL RESOURCES COMMISSION

RELOCATION ASSISTANCE

(By authority conferred on the natural resources commission by section 7 of Act No. 227 of the Public Acts of 1972, being §213.327 of the Michigan Compiled Laws)

R 299.951 Definitions.

Rule 1. (1) "Commission" means the natural resources commission.

(2) "Department" means the department of natural resources.

(3) "Uniform act" means the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646.

(4) "Aggrieved relocatee" means a person who may be entitled to a determination pursuant to the uniform act and who is dissatisfied with the determination with regard to their eligibility for benefits or the amount of the benefit.

(5) "Person" means an individual, partnership, corporation, or association.

History: 1954 ACS 87, p. 20, Eff. Mar. 27, 1976.

R 299.952 Aggrieved relocatee's options.

Rule 2. (1) An aggrieved relocatee who wishes to contest a determination made concerning either eligibility for benefits or the amount of benefits due pursuant to the uniform act may either:

(a) File a written objection with the department's land acquisition supervisor.

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(b) Appear before the department's land acquisition supervisor and present his objection orally.

(2) An objection, whether written or oral, shall be filed or presented within 6 months after the aggrieved relocatee is given written notice of the determination to which objection is made.

(3) The land acquisition supervisor shall give written notice of his decision by registered mail within 30 days after receipt of a written or oral objection.

History: 1954 ACS 87, p. 20, Eff. Mar. 27, 1976.

R 299.953 Hearing by department.

Rule 3. An aggrieved relocatee who wishes to contest the land acquisition supervisor's written decision may file a written objection with the department and may appear before the department to present an objection after written decision of the land acquisition supervisor. The objection shall be filed within 30 days after written notice by the land acquisition supervisor. A personal appearance shall be scheduled after a written request by the aggrieved relocatee. The hearing shall be conducted by a 3-member appeals committee appointed by the director of the department. One member of the committee shall be designated as hearings officer. The aggrieved relocatee may represent himself at the hearing or be represented by legal counsel. The department may be represented by the attorney general.

History: 1954 ACS 87, p. 21, Eff. Mar. 27, 1976.

R 299.954 Opening statements; evidence; witnesses.

Rule 4. (1) The hearing shall be opened by the hearings officer with a concise statement of the hearing's nature and purpose. The hearings officer shall follow the rules of evidence applicable to circuit court proceedings. However, the hearings officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs.

(2) Documentary evidence may be received in the form of copies, excerpts or by incorporation by reference.

(3) The aggrieved relocatee, the department and the appeals committee may examine witnesses.

History: 1954 ACS 87, p. 21, Eff. Mar. 27, 1976.

R 299.955 Exhibits; form; submission.

Rule 5. (1) Evidence to be presented, consisting of matters so complex as to make the presentation difficult to follow, may be presented in exhibit form, supplemented and explained, but not duplicated by oral testimony.

(2) An exhibit shall be numbered in numerical sequence and an exhibit of 2 or more pages shall be stapled together and notation made at the top of the first page as to the number of pages contained therein. A party introducing documentary exhibits shall furnish 3 copies to the hearings officer.

(3) Additional documentary evidence may be submitted subsequent to the closing of the hearing upon stipulation of the parties.

History: 1954 ACS 87, p. 21, Eff. Mar. 27, 1976.

R 299.956 Arguments and decisions.

Rule 6. (1) After all of the evidence is entered in the record, the aggrieved relocatee and the department may summarize their arguments and the hearing shall be closed.

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(2) Within 30 days after the hearing, the hearings officer shall send a written notice of the appeals committee's decision by registered mail to the aggrieved relocatee. The written notice shall contain the reasons supporting the decision. A copy of the hearing transcript shall be available upon request.

History: 1954 ACS 87, p. 21, Eff. Mar. 27, 1976.

R 299.957 Appeals to commission.

Rule 7. (1) The decision of the appeals committee may be appealed to the commission if written notice of appeal is filed by the aggrieved relocatee with the commission within 30 days after the hearings officer renders a decision.

(2) On appeal to the commission, additional written evidence may be filed by the aggrieved relocatee and by the department within 10 days after filing the notice of appeal of the appeals committee's decision. In rendering its decision, the commission shall consider the entire hearing record, and additional written evidence which may have been filed by the aggrieved relocatee or the department. The commission may request the aggrieved relocatee to personally appear. The commission shall inform the aggrieved relocatee and the department of its decision on the appeal by sending them a copy of its written decision within 30 days after the commission meets following the filing of additional written evidence.

(3) The decision of the commission shall be subject to judicial review by the appropriate state or federal court as provided by statutes and court rules.

History: 1954 ACS 87, p. 21, Eff. Mar. 27, 1976.

WILDLIFE DIVISION

PUBLIC ACCESS STAMP PROGRAM

(By authority conferred on the department of natural resources by section 48 of chapter 4 of Act No. 286 of the Public Acts of 1929, as amended, being §314.48 of the Michigan Compiled Laws)

R 299.981 Definitions.

Rule 1. As used in these rules:

(a) "Department" means the department of natural resources.

(b) "Hunter access tag" means a tag designed by the department and furnished to a landowner who leases his property under the public access stamp program. The tag is a means of identifying a hunter who hunts lawfully on such property.

(c) "Lease," "lease agreement," and "leased property" refers to land leased under the public access stamp program, as provided for in sections 44 to 48 of chapter 4 of Act No. 286 of the Public Acts of 1929, as amended, being §§314.44 to 314.48 of the Michigan Compiled Laws, to provide hunting land for a licensed hunter.

(d) "Public access stamp" means a stamp designed and sold by the department to provide funds for the leasing of private land for hunting purposes.

(e) "Public access stamp program" means the leasing arrangements between the department and private landowners to provide access to private land for hunting purposes under the provisions of sections 44 to 48 of chapter 4 of Act No. 286 of the Public Acts of 1929, as amended.

History: 1954 ACS 94, p. 22, Eff. Jan. 12, 1978.

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R 299.982 Department; powers and duties.

Rule 2. The department shall:

(a) Accept applications for lease agreements from landowners in zone 3, as defined in section 10 of chapter 1 of Act No. 286 of the Public Acts of 1929, as amended, being §311.10 of the Michigan Compiled Laws.

(b) Appraise the value of an applicant's property for hunting purposes.

(c) If the land is acceptable for hunting purposes, negotiate a lease agreement proposed for final approval.

(d) Furnish appropriate signs.

(e) Furnish hunter access tags.

(f) Make payments after March 1 of each year of the agreement.

History: 1954 ACS 94, p. 22, Eff. Jan. 12, 1978.

R 299.983 Leases.

Rule 3. Except for unusual situations and during the final 3 years of the program, the lease agreement shall be for 3 years.

History: 1954 ACS 94, p. 23, Eff. Jan. 12, 1978.

R 299.984 Appraisal of property to be leased; guidelines; hunting access tags.

Rule 4. (1) The guidelines for the appraisal of the value of property to be leased for hunting purposes are as follows:

Hunting Resource	Annual Rate Per Acre
Wild, natural marsh	$2.50
Idle fields not cropped, clipped or pastured	2.50
Corn or small grain left for wildlife (not more than 5 acres)	2.50
Brush, shrubs, and trees less than 2 inches diameter breast high	2.50
Brushy fence rows not less than 6 feet wide	2.50
A special situation the appraiser believes warrants the payment of	2.50
Idle orchards	2.00
A special situation the appraiser believes warrants the payment of	2.00
Unclipped small grain in stubble during the hunting season	1.50
A special situation the appraiser believes warrants the payment of	1.50
Unpastured woods not less than 4 inches diameter breast high	1.00
Asparagus fields, sugar beets during the hunting season	1.00
A special situation the appraiser believes warrants the payment of	1.00
Rotation hay, alfalfa, clover and such other crops	.50
Vineyards and orchards with cover	.50
Grazed pasture	.50
A special situation the appraiser believes warrants the payment of	.50
Beans, winter wheat, fallow fields and silage stubble	.00
Fallow vineyards and orchards	.00

(2) The guidelines for the issuance of hunter access tags are as follows:

(a) One hunter access tag shall be issued for each 10 acres, unless a special situation warrants the issuance of fewer or more tags.

(b) The field appraiser shall determine the appropriate number of tags to issue.

History: 1954 ACS 94, p. 23, Eff. Jan. 12, 1978.

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R 299.985 Final approval of proposed leases.

Rule 5. Final approval of a proposed lease shall be given by the chief of the wildlife division.

History: 1954 ACS 94, p. 23, Eff. Jan. 12, 1978.

R 299.986 Lessor; duties.

Rule 6. The lessor shall:

(a) Post signs furnished by the department pursuant to departmental guidelines.

(b) Permit hunter access to leased property without regard to race, color, creed, or sex.

(c) Provide a hunter access tag to each hunter authorized to hunt pursuant to a lease agreement.

(d) Obtain approval from the department to significantly alter land under the lease agreement. If land under a lease agreement is altered in a manner that changes the value of the land for hunting purposes, the department may cancel or renegotiate the lease agreement.

History: 1954 ACS 94, p. 23, Eff. Jan. 12, 1978.

R 299.987 Termination and cancellation of leases.

Rule 7. (1) The lease agreement may be terminated at any time by the landowner. A payment shall not be made if the agreement is terminated during the program year. An agreement may be terminated at the end of the program year without penalty.

(2) A payment shall not be made under a lease agreement, and a lease may be cancelled by the department, if the department determines that:

(a) There was a failure to permit public access under the terms of a lease agreement.

(b) There was a failure to post access signs.

(c) There was a failure to provide hunter access tags under the terms of the lease agreement.

(d) Public access was prohibited, restricted, or discouraged by posting the boundary of the property with signs such as, but not limited to, "No Hunting," "No Trespassing," "Private Property, No Trespassing."

History: 1954 ACS 94, p. 23, Eff. Jan. 12, 1978.

R 299.988 Hunter; duties.

Rule 8. A hunter exercising the privilege of hunting on lands leased under the public access stamp program shall:

(a) Have on his person an unexpired public access stamp, validated by his signature written across the face thereof in ink and affixed to his hunting license.

(b) Obtain a hunter access tag from the landowner.

(c) Show his hunter access tag to the landowner, conservation officer, or other law enforcement officer upon demand, and shall return it to the landowner when he leaves the premises for the day.

(d) Follow the landowner's instructions with regard to:

(i) Land on which he may hunt and land on which he may not hunt.

(ii) General conduct while on the land, including, but not limited to, the closure of gates, climbing of fences, and the use of safety precautions near livestock and buildings.

History: 1954 ACS 94, p. 24, Eff. Jan. 12, 1978.

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R 299.989 Eviction; penalties.

Rule 9. If a hunter fails to follow the reasonable instructions of the landowner or exhibits unsportsmanlike conduct, such hunter shall be subject to eviction from the landowner's property. The landowner, in addition, may prohibit such hunter from hunting on his property in the future. A hunter who violates R 299.988 may be subject to the penalties in section 5 of chapter 5 of Act No. 286 of the Public Acts of 1929, as amended, being §315.5 of the Michigan Compiled Laws.

History: 1954 ACS 94, p. 24, Eff. Jan. 12, 1978.

ROSE LAKE WILDLIFE RESEARCH AREA

(By authority conferred on the commission of natural resources by sections 2 and 3a of Act No. 17 of the Public Acts of 1921, as amended, and by sections 9 and 252 of Act No. 380 of the Public Acts of 1965, as amended, being §§299.2, 299.3a, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.1001 Area description.

Rule 1. The state-owned lands and waters of the Rose Lake wildlife research area are located in sections 13, 14, 21, 22, 23, 24, 25, 26 and 27 of T5N, R1W and sections 20, 21, 22, 28 and 29 of T5N, R1E.

History: 1954 ACS 54, p. 36, Eff. May 15, 1968; 1954 ACS 81, p. 24, Eff. Nov. 14, 1974.

R 299.1002 Hunting and trapping.

Rule 2. (1) It is unlawful to trap on the state-owned lands and waters of the Rose Lake wildlife research area, except under a written permit issued by the department of natural resources.

(2) The director of the department of natural resources will determine the number of permits to be issued, if any, specifying the period of time and location in the area.

(3) A trapper permittee shall return his permit after its expiration and shall present for examination at area headquarters as so instructed on his permit, either the entire carcass of the animal trapped or the cased or stretched skins of any animal trapped, or both.

History: 1954 ACS 54, p. 36, Eff. May 15, 1968; 1954 ACS 81, p. 24, Eff. Nov. 14, 1974.

R 299.1003 Regulation of use.

Rule 3. (1) The director of the department of natural resources may restrict or prohibit activities in designated portions of the area when required for research purposes. These portions of the area shall be posted as to all restrictions.

(2) It is unlawful to engage in activities in any portion of the area where these activities are specifically restricted or prohibited.

History: 1954 ACS 54, p. 36, Eff. May 15, 1968; 1954 ACS 81, p. 24, Eff. Nov. 14, 1974.

R 299.1004 Miscellaneous unlawful acts.

Rule 4. It is unlawful on the state-owned lands and waters of the Rose Lake wildlife research area to do any of the following:

(a) Molest or harass any wildlife, except wild game birds and wild game animals that may be hunted during their respective open seasons, subject to R 299.1003 and subdivision (b) of this rule.

(b) Carry or discharge a firearm from March 2 to August 31, except at a duly posted rifle range or trapshooting area, under special written permit, or as

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required for research, management, or enforcement purposes by the department of natural resources.

(c) Target practice, trapshoot, or skeet shoot from September 1 to March 1 without special written permission of the director or his authorized representative. This subdivision does not apply to a duly posted rifle range or a trapshooting or skeet-shooting area.

(d) Operate a powered vehicle or contrivance on any lands, roads, or trails posted against such use or closed to entry by fence, gate, wire, cable, or other barrier, except under written permit and except as required for research, management, or law enforcement purposes by the department of natural resources.

(e) Ride or lead horses or other riding animals, except on established research area roads or vehicle trails, or to ride on such roads or trails in groups involving more than 3 animals, except under written permit.

(f) Camp on any part of the area, except for youth groups under a permit that specifies designated locations.

History: 1954 ACS 54, p. 37, Eff. May 15, 1968; 1954 ACS 81, p. 24, Eff. Nov. 14, 1974; 1954 ACS 101, p. 28, Eff. Dec. 14, 1979.

FISHERIES AND WILDLIFE DIVISIONS

ENDANGERED AND THREATENED SPECIES

(By authority conferred on the commission of natural resources by section 4 of Act No. 203 of the Public Acts of 1974, being §299.224 of the Michigan Compiled Laws)

R 299.1021 Mollusks.

Rule 1. (1) The following species of mollusks of class Pelecypoda (mussels) are included on the state list of endangered species:

(a) Simpsoniconcha ambigua (Say).

(b) Obovaria leibii (Lea) = O. subrotunda (Rafinesque).

(2) The following species of mollusks of class Pelecypoda (mussels) are included on the state list of threatened species:

(a) Pleurobema clava (Lamarck).

(b) Elliptio complanatus (Dillwyn).

(c) Cyclonaias tuberculata (Rafinesque).

(d) Anodonta subgibbosa (Anthony).

(e) Actinonaias ellipsiformis (Lea).

(f) Lampsilis fasciola (Rafinesque).

(g) Dysnomia triquetra (Rafinesque).

(3) The following species of mollusks of class Gastropoda (snails) are included on the state list of endangered species: None.

(4) The following species of mollusks of class Gastropoda (snails) are included on the state list of threatened species:

(a) Lymnaea megasoma (Say).

(b) Pomatiopsis cincinnatiensis (Lea).

(c) Paludestrina (Fontigens) nicklineana (Lea).

(d) Amnicola binneyana (Hannibal) = Cincinnatia emarginata (Say).

(e) Zoogenetes harpa (Say).

(f) Mesodon (Polygyra) sayana (Pilsbry).

(g) Mesodon (Polygyra) elevata (Say).

(h) Triodopsis notata (Deshayes) = Polygyra palliata (Say).

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(i) Anguispira kochi (Pfeiffer) = A. solitaria (Say).
(j) Mesomphix cupreus (Rafinesque) = Omphalina.
(k) Haplotrema concavum (Say) = Circinnaria.
(l) Discus patulus (Deshayes) = Gonyodiscus perspectivus (Say).

History: 1954 ACS 89, p. 14, Eff. Dec. 4, 1976.

R 299.1022 Insects.

Rule 2. (1) The following species of insects are included on the state list of endangered species: None.

(2) The following species of insects are included on the state list of threatened species: None.

History: 1954 ACS 89, p. 14, Eff. Dec. 4, 1976.

R 299.1023 Fishes.

Rule 3. (1) The following species of fishes are included on the state list of endangered species:

(a) Longjaw cisco, Coregonus alpenae (Koelz).
(b) Deepwater cisco, Coregonus johannae (Wagner).
(c) Blackfin cisco, Coregonus nigripinnis (Gill).
(d) Shortnose cisco, Coregonus reighardi (Koelz).
(e) Shortjaw cisco, Coregonus zenithicus (Jordan and Evermann).
(f) Blue pike, Stizostedion vitreum glaucum (Hubbs).

(2) The following species of fishes are included on the state list of threatened species:

(a) Lake sturgeon, Acipenser fulvescens (Rafinesque).
(b) Cisco or lake herring, Coregonus artedii (Lesueur).
(c) Bloater, Coregonus hoyi (Gill).
(d) Kiyi, Coregonus kiyi (Koelz).
(e) Silver shiner, Notropis photogenis (Cope).
(f) Redside dace, Clinostomus elongatus (Kirtland).
(g) River redhorse, Moxostoma carinatum (Cope).
(h) Northern madtom, Noturus stigmosus (Taylor).
(i) Eastern sand darter, Ammocrypta pellucida (Agassiz).

History: 1954 ACS 89, p. 14, Eff. Dec. 4, 1976.

R 299.1024 Amphibians.

Rule 4. (1) The following species of amphibians are included on the state list of endangered species: None.

(2) The following species of amphibians are included on the state list of threatened species:

(a) Marbled salamander, Ambystoma opacum (Gravenhorst).
(b) Small-mouthed salamander, Ambystoma texanum (Matthes).
(c) Western lesser siren, Siren intermedia nettingi (Goin).

History: 1954 ACS 89, p. 15, Eff. Dec. 4, 1976.

R 299.1025 Reptiles.

Rule 5. (1) The following species of reptiles are included on the state list of endangered species: None.

(2) The following species of reptiles are included on the state list of threatened species:

(a) Black rat snake, Elaphe obsoleta obsoleta (Say).
(b) Northern copperbelly, Natrix erythrogaster neglecta (Conant).

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(c) Kirtland's water snake, Natrix (Clonophis) kirtlandi (Kennicott).
(d) Eastern box turtle, Terrapene carolina carolina (Linnaeus).

History: 1954 ACS 89, p. 15, Eff. Dec. 4, 1976.

R 299.1026 Birds.

Rule 6. (1) The following species of birds are included on the state list of endangered species:
(a) Peregrine falcon, Falco peregrinus (Tunstall).
(b) Kirtland's warbler, Dendroica kirtlandii (Baird).
(2) The following species of birds are included on the state list of threatened species:
(a) Double-crested cormorant, Phalacrocorax auritus (Lesson).
(b) Cooper's hawk, Accipiter cooperi (Bonaparte).
(c) Red-shouldered hawk, Buteo lineatus (Gmelin).
(d) Bald eagle, Haliaetus leucocephalus (Linnaeus).
(e) Marsh hawk, Circus cyaneus (Linnaeus).
(f) Osprey, Pandion haliaetus (Linnaeus).
(g) Greater prairie chicken, Tympanuchus cupido (Linnaeus).
(h) Piping plover, Charadrius melodus Ord.
(i) Barn owl, Tyto alba (Scopoli).
(j) Loggerhead shrike, Lanius ludovicianus (Linnaeus).

History: 1954 ACS 89, p. 15, Eff. Dec. 4, 1976.

R 299.1027 Mammals.

Rule 7. (1) The following species of mammals are included on the state list of endangered species:
(a) Indiana bat, Myotis sodalis (Miller and Allen).
(b) Eastern timber wolf, Canis lupus lycaon (Schreber).
(2) The following species of mammals are included on the state list of threatened species:
(a) Least shrew, Cryptotis parva (Say).
(b) Pine marten, Martes americana (Turton).
(c) Southern bog lemming, Synatomys cooperi (Baird).
(d) Pine vole, Microtus pinetorum (Le Conte).

History: 1954 ACS 89, p. 15, Eff. Dec. 4, 1976.

R 299.1028 Plants.

Rule 8. (1) The following species of plants are included on the state list of endangered species:
(a) Lycopodium sitchense, Sitka club-moss.
(b) Lycopodium, sp. nov. J. G. Bruce, no common name.
(c) Phyllitis scolopendrium var. americanum, Hart's tongue fern.
(d) Woodsia abbeae, A woodsia fern.
(e) Scirpus hallii, Hall's bulrush.
(f) Polygonatum biflorum var. melleum, A Solomon's-seal variety.
(g) Isotria medeoloides, Smaller whorled pogonia.
(h) Arnica cordifolia = A. whitneyi, Heart-leafed arnica.
(i) Opuntia fragilis, Fragile prickly pear.
(j) Petalostemon purpureum, Red prairie clover.
(k) Castanea dentata, American chestnut.
(l) Gentiana saponaria, Soapwort gentian.
(m) Nelumbo lutea, American lotus.

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(n) Chamaerhodos nuttallii, no common name.
(o) Chelone obliqua, Purple turtlehead.
(p) Baptisia leucophaea, Cream wild indigo.

(2) The following species of plants are included on the state list of threatened species: Panax quinquefolius, Ginseng.

History: 1954 ACS 89, p. 16, Eff. Dec. 4, 1976.

FISHERIES DIVISION

IMPORTATION AND TRANSPORTATION OF FISH AND EGGS

(By authority conferred on the director of the department of natural resources by sections 5 and 5a of Act No. 196 of the Public Acts of 1957, as amended, and by sections 9 and 353 of Act No. 380 of the Public Acts of 1965, being §§308.115, 308.115a, 16.109, and 16.353 of the Michigan Compiled Laws)

R 299.1051 Importation, transportation, and sale of live fishes or viable eggs of the salmonidae family.

Rule 1. (1) No person shall import live fishes or viable eggs of the family of the salmonidae from without the state or transport or sell such fishes or viable eggs within the state, except under authority of a permit issued by the director of the department of natural resources, hereinafter referred to as the director.

(2) Applications for permits to import or transport live fishes or viable eggs of the family salmonidae shall be made on forms provided by the director and shall contain the following data and such other information as may be required for the purpose of controlling the spread of diseases of fishes, including, but not limited to, infectious pancreatic necrosis (IPN); viral hemorrhagic septicemia (egtved virus); and myxosoma cerebralis (whirling disease): (a) species, (b) name and address of shipper, (c) name of carrier, (d) type of transportation, (e) name and address of hatchery where fishes or eggs were produced, (f) name of broker through whom shipment is made, if any, and (g) the approximate number or weight of fishes or eggs to be imported or transported.

(3) Importation permits will be issued only for fish stock or eggs, or both, from sources certified free of IPN, egtved, whirling disease, or other diseases of fishes which may threaten resident fish stocks. The certification shall be made by a person holding a degree from an accredited college in 1 of the sciences and specializing in diseases of fishes and whose name appears on a register to be established and maintained by the director. Certifications shall be reviewed not less frequently than once every 6 months.

(4) Fish stocks of the family salmonidae held or in transport under authority of a game fish breeder's license shall be subject to inspection by designated representatives of the director. Such inspection may include removal of reasonable quantities of stock for biological samples.

(5) Permits to sell and transport fishes or eggs within the state shall be issued only for stocks certified to be free of diseases, including, but not limited to, IPN, egtved, and whirling disease. Permits to sell and transport fishes and eggs within the state shall be issued for a time period not to exceed 6 months.

(6) Commencing August 15, 1969, licensed game fish breeders shall have available for examination by the director or his designated representatives records of inventory of fish stocks as of August 15, 1969, and evidence of all purchases and sales of fishes and viable eggs made subsequent to August 15, 1969, except that the

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records need be maintained in any year for the current year and the 2 prior years only. Information obtained from such records shall be confidential to the department of natural resources.

History: 1954 ACS 59, p. 32, Eff. Aug. 14, 1969.

R 299.1052 Importation of other species.

Rule 2. No fish or eggs of the species misgurnus anguillicaudatus (Japanese weatherfish), ctenopharyngodon idellus (grass carp), leuciscus idus (ide), scardinius erythrophthalamus (rudd), rhodeus sericeus (bitterling) or tinca tinca (tench) shall be imported into Michigan except by permit issued by the director.

History: 1954 ACS 59, p. 33, Eff. Aug. 14, 1969.

MARKETING OF IMPORTED COMMERCIAL AND GAME FISH

(By authority conferred on the director of the department of natural resources by section 14 of Act No. 84 of the Public Acts of 1929, as amended, and section 9 of Act No. 380 of the Public Acts of 1965, being §§308.14 and 16.109 of the Michigan Compiled Laws)

R 299.1061 Documents and records of wholesalers and retailers.

Rule 1. Imported commercial fish species and game fish, not processed outside the state and sold to the consumer in the same package as imported, when of a size, weight, or species not prohibited by the laws of the state or country where caught, may be possessed, transported, offered for sale and marketed as follows:

(a) A wholesale fish dealer who, directly or indirectly, imports the fish shall (i) retain for 30 days following importation a commercial invoice or bill of sale or, if imported from Canada, the customs entry or customs broker's statement, to include species of fish and formal entry number; (ii) keep a record including quantity and species of fish and name and address of every retailer to whom he sells or ships such fish; and (iii) make the invoices, customs documents, and records available for inspection by any conservation officer at any reasonable time.

(b) A retail fish dealer shall retain, until the fish are disposed of by sale or otherwise, a bill of sale or invoice, indicating quantity and species of fish and name and address of consignor for inspection by any conservation officer at any reasonable time.

History: 1954 ACS 66, p. 10, Eff. Dec. 21, 1970.

COMMERCIAL FISHING

(By authority conferred on the director and the commission of the department of natural resources by section 1b of Act No. 84 of the Public Acts of 1929, as amended, and sections 9 and 255 of Act No. 380 of the Public Acts of 1965, as amended, being §§308.1b, 16.109, and 16.355 of the Michigan Compiled Laws)

R 299.1071 Commercial fishing license; application; eligibility of applicant.

Rule 1. (1) An application for a commercial fishing license shall be made not less than 30 days before fishing operations are expected to commence.

(2) To be eligible for a license, an applicant shall have been issued a Michigan commercial fishing license for the immediately preceding year.

History: 1954 ACS 79, p. 36, Eff. June 5, 1974.

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R 299.1072 Areas closed to commercial fishing.

Rule 2. Except as provided in a license issued by the director or in a research permit issued by a representative of the director, it is unlawful to use gill nets, trap nets, pound nets, seines, and set hooks in the following described waters:

LAKE SUPERIOR

(a) Waters of depths less than 60 fathoms between the mouth of the Montreal river in section 10, T48N, R49W, Gogebic county, and the mouth of the Elm river in section 30, T54N, R36W, Houghton county.

(b) Waters south of a line from Traverse point in section 22, T55N, R31W, Houghton county, to Big Bay point in section 1, T51N, R27W, Marquette county.

(c) Waters within 4½ miles of the shoreline of Isle Royale and surrounding islands.

(d) Waters of depths less than 60 fathoms between Au Sable point in section 2, T50N, R15W, Alger county, and Crisp point in section 1, T50N, R8W, Luce county, extending to the international boundary.

LAKE MICHIGAN

(e) Waters south and east of a line from Grand Traverse light station in section 6, T32N, R10W, Leelanau county, to village of Good Hart in section 25, T37N, R6W, Emmet county.

LAKE HURON

(f) Waters southwest of a line from Hammond Bay harbor light in section 25, T37N, R2E, to Forty Mile point light station in section 23, T36N, R4E, Presque Isle county.

(g) Waters west of a line from North point in section 6, T30N, R10E, to South point in section 26, T29N, R9E, Alpena county.

(h) Waters west of a line from Tawas point in section 34, T22N, R8E, Iosco county, to point Lookout in section 13, T19N, R7E, Arenac county.

History: 1954 ACS 79, p. 36, Eff. June 5, 1974.

R 299.1073 Waters closed to the use of gill nets.

Rule 3. It is unlawful to use gill nets in the Les Cheneaux channels and certain waters of upper Lake Huron as provided in section 38 and 38a of Act No. 84 of the Public Acts of 1929, as amended.

History: 1954 ACS 79, p. 37, Eff. June 5, 1974.

R 299.1074 Areas and depths for use of commercial fishing devices; size of meshes in gill nets.

Rule 4. (1) Including the statutory prohibitions of sections 2, 3, and 30a to 45 of Act No. 84 of the Public Acts of 1929, as amended, being §§308.2, 308.3, and 308.30a to 308.45 of the Michigan Compiled Laws; and by the provisions of section 1 of Act No. 179 of the Public Acts of 1935, section 1 of Act No. 180 of the Public Acts of 1931, as amended, and section 1 of Act No. 92 of the Public Acts of 1931, being §§308.141, 308.151, and 308.161 of the Michigan Compiled Laws, it is unlawful to use gill nets, trap nets, pound nets, seines, and set hooks, except in the manner, time, area, and depths hereinafter prescribed or as provided in a license issued by the director or in a research permit issued by a representative of the director.

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LAKE SUPERIOR

(a) Gill nets with meshes 2½ inches to 3 inches, stretch measure, may be used in depths greater than 60 fathoms if the lead lines of the gill nets are set on the bottom.

(b) Trap nets and pound nets may be used in depths less than 15 fathoms in Lake Superior January through October and during December.

LAKE MICHIGAN

(c) Trap nets and pound nets may be used in depths less than 15 fathoms in Lake Michigan January through October and during December, except trap nets and pound nets may be used only for taking smelt and alewife January through May in waters north of a line extending from the mouth of the Ford river in sections 21 and 22, T38N, R23W, to Peninsula point in section 24, T38N, R21W, Delta county.

(d) Gill nets with meshes 2½ inches to 3 inches, stretch measure, may be used in depths greater than 40 fathoms north of a line extending due west from Grand Haven harbor; and in depths greater than 30 fathoms south of a line extending due west from Grand Haven harbor only at such times as to coincide with an open season on chubs established by the natural resources commission.

LAKE HURON

(e) Trap nets and pound nets may be used in depths less than 15 fathoms January through October and during December in the waters of Lake Huron and connecting waters north of a line extending due east from Rogers City to the international boundary.

(f) Gill nets with meshes not less than 8 inches, stretch measure, may be used in waters of Saginaw bay south of a line from point Lookout in section 13, T19N, R7E, Arenac county, to Sand point in section 11, T17N, R9E, Huron county.

(g) Trap nets may be used from April 1 to May 31, and from September 15 to November 30 in an area north and east of Sand point within the following described boundaries: commencing at the monument on the westerly end of Sand point, thence easterly to the section line between section 7, T17N, R10E and section 12, T17N, R9E; thence on a line due north for 2 miles; thence on a line due west to a point due north of the monument on Sand point; thence southerly to the point of beginning.

(h) Trap nets, seines, and set hooks may be used in waters of Saginaw bay south of a line from point Lookout in section 13, T19N, R7E, Arenac county, to Sand point in section 11, T17N, R9E, Huron county; and west of a line extending from Fish point, Tuscola county to the westerly point of Stony island, to the westerly point of North island; thence to the westerly end of Sand point in Huron county.

LAKE ERIE

(i) Trap nets, seines, and set hooks may be used in Lake Erie.

History: 1954 ACS 79, p. 37, Eff. June 5, 1974; 1954 ACS 88, p. 57, Eff. Aug. 10, 1976.

R 299.1075 Closed seasons; disposition of fish taken during closed seasons; minimum perch size limit; violation.

Rule 5. (1) Sturgeon, pike-perch (yellow pickerel), blue pike, sauger, northern pike, splake, coho salmon, chinook salmon, and Atlantic salmon, when caught live

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in trap nets, pound nets, and gill nets, shall be returned to the waters immediately. Dead fish of the species named in this subrule, when caught in trap nets, pound nets, and gill nets, shall be dressed, iced, and disposed of in accordance with written disposal instructions issued by a conservation officer and a locked metal seal shall be affixed to each fish before arrival at dock or landing point.

(2) Lake trout and lake herring, when caught in gill nets authorized in Lake Superior, may be sold if a metal seal is affixed to each lake trout pursuant to subrule (1). Lake trout and lake herring, when caught live in trap nets, pound nets, and gill nets in Lakes Michigan and Huron, shall be returned to the water immediately, and a metal seal shall be affixed to dead lake trout and the trout disposed of pursuant to subrule (1).

(3) Chubs and lake herring may be taken only in Lake Superior.

(4) Perch, a minimum of 8 inches total length or 5 inches with heads and tails off, crappie, and rock bass may be taken only in those waters of Lake Huron described in R 299.1074(1)(f) and R 299.1074(1)(g) or as provided in a license issued by the director or in a research permit issued by the director's representative.

(5) The size limit on perch shall remain in effect for a period of 3 years after the date these rules become effective.

(6) A licensee may be permitted to retain as part of his catch up to 5% of the total landed weight of perch which are less than the minimum size limit specified in this rule.

(7) If a licensee is found with between 5% and 15% undersized perch, by weight, in his possession, the first violation shall result in a warning and subsequent violations may result in a proceeding to suspend or revoke his license.

(8) If a licensee is found with 15% or more undersized perch, by weight, in his possession, this may result in a proceeding to suspend or revoke his license.

History: 1954 ACS 79, p. 38, Eff. June 5, 1974; 1954 ACS 88, p. 58, Eff. Aug. 10, 1976; 1954 ACS 93, p. 23, Eff. Dec. 1, 1977.

R 299.1076 Amount of fish to be taken.

Rule 6. (1) The director may fix the kind and amount of fish, herein referred to as quotas, which may be taken from Lakes Superior, Michigan, Huron, and Erie.

(2) The director shall give licensees 30 days advance notice in writing of the quotas which may be taken from Lakes Superior, Michigan, Huron, and Erie. Quotas may be set by area or specified in a license or research permit.

(3) A licensee shall report each day's catch, by kind and amount of fish specified in the quotas, on forms provided by the director. When required, the form shall be mailed to the director or his representative not later than 24 hours after each day's catch is taken.

(4) When the quotas fixed by the director have been caught and licensees so notified in writing, licensees shall not attempt to take any additional quantities of the kind of fish fixed in the quotas.

History: 1954 ACS 79, p. 38, Eff. June 5, 1974.

R 299.1077 Areas licensees permitted to fish; limitations on gear.

Rule 7. (1) A licensee may fish only within a radius of 50 miles of the port specified in the license and all fish shall be landed at that port.

(2) A licensee shall conduct his commercial fishing operation only with the kind and amount of gear specified in his license or research permit.

History: 1954 ACS 79, p. 39, Eff. June 5, 1974.

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R 299.1078 Replacement of gill nets with trap and pound nets.

Rule 8. (1) Persons whose gill net fishing operations are prohibited or restricted by these rules and who intend to continue to fish commercially in the waters of this state may replace their gill nets with trap or pound nets. Any person who intends to replace his gill nets with trap or pound nets may continue to use his gill nets where otherwise prohibited by these rules only during 1974 by filing an appropriate application for replacement within the prescribed time designated by the director. Persons licensed to use gill nets in combination with trap or pound nets when these rules become effective may continue to use gill nets only during 1974 where otherwise prohibited by these rules. A person authorized to use gill nets only during 1974 where otherwise prohibited by these rules shall use gill nets only under the provisions of a permit or license issued by the director, the provisions of which shall be substantially the same as those contained in the person's 1974 commercial fishing license. This subrule does not apply to those persons presently licensed to use trap or pound nets only or gear other than gill nets.

(2) To be eligible to replace gill nets with trap or pound nets, a person shall:

(a) Have held a commercial fishing license in 1971, 1972, and 1973 to use gill nets in the waters of this state.

(b) File an application in accordance with instructions on a form provided by the director within 15 days after the effective date of these rules.

(3) Failure of a person to comply with subsection (b) of subrule (2) is evidence that the person no longer wishes to fish commercially and the director shall notify the person to cease and desist using gill nets where prohibited by these rules. The person may voluntarily terminate his license at that time or action will be taken to revoke the license if the person continues to use gill nets where prohibited by these rules.

(4) A person whose application has been properly filed shall be notified and shall request to have his commercial fishing license amended to authorize replacement of gill nets with trap or pound nets.

(5) A person whose license has been amended pursuant to subrule (4) shall provide progress reports on his gill net replacement to the director. Progress reports required by this subrule shall be submitted as follows:

(a) Within 30 days of the effective date of the license amendment, a person shall submit to the director or his representative evidence in the form of purchase orders for gear and materials or other satisfactory information that clearly demonstrates that he has commenced replacing his gill nets with trap or pound nets.

(b) Within 90 days of the effective date of the license amendment, a person shall submit to the director or his representative a progress report that clearly demonstrates his continued progress in replacing his gill nets with trap or pound nets.

(c) By December 31, 1974, all persons who have been authorized to replace gill nets with trap or pound nets shall submit to the director satisfactory evidence of having totally completed the replacement.

(6) A person failing to meet the requirements of subrule (5) shall show cause to the director why the requirements have not been met; and unless authorized by the director, the person shall not be subsequently licensed to fish commercially in the waters of this state.

(7) A person electing to replace his gill nets pursuant to this rule shall be licensed to use no more than 10 trap nets or 10 pound nets, or any combination thereof, so long as the total number of nets does not exceed 10 nets.

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(8) If the director finds it necessary to protect the fisheries resources of this state and rules are promulgated as required by law, the use of gill nets as provided by these rules shall be prohibited or restricted.

History: 1954 ACS 79, p. 39, Eff. June 5, 1974.

R 299.1079 Rescission.

Rule 9. The following rules are rescinded:

(a) The rules entitled "Closed Seasons for Taking Whitefish, Yellow Perch, and Black Crappie," being R 299.741 and R 299.743 of the Michigan Administrative Code, and appearing on page 1444 of the 1960 Annual Supplement to the Code.

(b) The rule entitled "Illegal Possession and Disposition of Lake Trout and Splake in Lake Superior," being R 299.772 of the Michigan Administrative Code, and appearing on page 4163 of the 1967 Annual Supplement to the Code.

(c) The rule entitled "Illegal Possession and Disposition of Lake Trout and Splake in Lake Superior," being R 299.792 of the Michigan Administrative Code, and appearing on page 4163 of the 1967 Annual Supplement to the Code.

(d) The rule entitled "Nets: Use, Meshes," being R 299.802 of the Michigan Administrative Code, and appearing on page 3154 of the 1964-65 Annual Supplement to the Code.

(e) The rule entitled "Coho and Chinook Salmon," being R 299.814 of the Michigan Administrative Code, and appearing on page 4164 of the 1967 Annual Supplement to the Code.

(f) The rule entitled "Northern Pike," being R 299.818 of the Michigan Administrative Code, and appearing on page 3639 of the 1966 Annual Supplement to the Code.

(g) The rule entitled "Suspension of Statutory Provisions," being R 299.831 of the Michigan Administrative Code, and appearing on page 4165 of the 1967 Annual Supplement to the Code.

(h) The rules relating to gill nets, being R 299.841 to R 299.845 of the Michigan Administrative Code, and appearing on pages 4685 and 4686 of the 1968 Annual Supplement to the Code and page 5045 of the 1969 Annual Supplement to the Code.

(i) The rules entitled "Commercial Fishing Licenses and Zones," being R 299.881 to R 299.890 of the Michigan Administrative Code, and appearing on pages 10 to 14 of the Supplement No. 76 to the Code.

History: 1954 ACS 79, p. 40, Eff. June 5, 1974.

GEOLOGY DIVISION

OIL AND GAS OPERATIONS

(By authority conferred on the supervisor of wells and the commission of natural resources by section 6 of Act No. 61 of the Public Acts of 1939, as amended, and sections 9 and 251 of Act No. 380 of the Public Acts of 1965, as amended, being §§319.6, 16.109, and 16.351 of the Michigan Compiled Laws)

PERMITS TO DRILL

R 299.1101 Application for permit to drill; requirements; issuance of permit.

Rule 101. (1) Until a person has complied with the requirements of subrule (2), that person shall not begin the drilling of a well for:

(a) Oil or gas.

(b) Secondary recovery or pressure maintenance.

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(c) Disposal of salt water, brine, oil field waste, or other liquids incidental to the drilling or producing of wells for oil or gas or the storage of natural hydrocarbons derived from oil or gas.

(d) Storage of natural dry gas or oil well gas.

(e) Development of reservoirs for the storage of liquid petroleum gas.

(2) Pursuant to subrule (1):

(a) The exact location of the well shall be established by a competent surveyor or engineer, or by competent company personnel, and a stake or marker shall be set at that location.

(b) The survey required by subdivision (a) shall include a plat or sketch with correct location description, footages from the nearest quarter section and property lines, and information relative to the distances and directions from the stake or marker to special hazards, such as lakes, streams, drainageways, swamps, marshes, regularly used buildings, highways, and power lines, which lie within 300 feet of the proposed locations, and shall note any stream or body of water within 1,320 feet of the proposed location, stating direction and distance. Four certified copies of this survey shall be filed with an application for a permit to drill on forms prescribed by the supervisor.

(c) The person desiring to drill shall completely and accurately fill out, sign, and file a written application for a permit to drill on forms prescribed by the supervisor. The application shall be submitted to the supervisor at the offices of the geology division, Lansing, Michigan, not less than 10 days in advance of the date drilling is expected to be commenced.

(d) The application shall be accompanied by a certification that provision has been made to furnish a derrick floor or ground elevation above sea level datum run by a competent surveyor or competent engineer. This elevation shall be filed with the supervisor within 14 days after the well is spudded.

(e) The person has filed an environmental impact assessment as prescribed by the supervisor.

(f) The person has filed an organization report when requested by the supervisor.

(g) The person has filed a surety bond as provided in R 299.1106.

(h) The person has paid the fee as specified by statute.

(i) The person has received and posted in a conspicuous place at the well location a written permit to drill the well. The permit shall remain posted at the well until the drilling of the well is completed.

(3) The geology division of the department of natural resources shall receive and process all applications for permits to drill. Upon receiving a correct written application conforming to subdivisions (a) to (h) of subrule (2), the application shall be processed, and a permit issued, in accordance with the statutory provisions that the permit be issued within 10 days after receipt of application. A permit may not be issued to a lessee or an authorized representative of a lessee if the lessee is not eligible for a permit, as provided in R 299.1104.

History: 1954 ACS 37, p. 13, Eff. Feb. 14, 1964; 1954 ACS 92, p. 17, Eff. July 13, 1977.

R 299.1102 Definitions.

Rule 102. (1) As used in these rules:

(a) "Act" means Act No. 61 of the Public Acts of 1939, as amended, being §319.1 et seq. of the Michigan Compiled Laws.

(b) "Supervisor" means the supervisor of wells or the authorized representative thereof.

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(2) The terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 37, p. 14, Eff. Feb. 14, 1964; 1954 ACS 92, p. 18, Eff. July 13, 1977.

R 299.1103 Permits for oil or gas storage by conversion of operation.

Rule 103. Should any well or underground operation developed for a non-oil and gas use be converted for the storage of oil or gas or any of the natural hydrocarbons therefrom, the well or underground operation shall be classified as an oil or gas storage operation and subject to the provisions of these general regulations. The operation, conversion, or reworking of the well or underground project for such storage shall be suspended until a permit has been obtained as provided in R 299.1101.

History: 1954 ACS 37, p. 14, Eff. Feb. 14, 1964.

R 299.1104 Eligibility for permit.

Rule 104. The supervisor is prohibited by statute from issuing a permit to any person who is not in compliance with the provisions of the act, these rules, or the orders of either the supervisor or the natural resources commission. Eligibility for permits is conditioned on compliance with such rules and orders in a diligent manner and in accordance with accepted oil field practice.

History: 1954 ACS 37, p. 14, Eff. Feb. 14, 1964; 1954 ACS 92, p. 18, Eff. July 13, 1977.

R 299.1105 Transfer of permits.

Rule 105. (1) Should the person to whom a permit has been issued change the location prior to the drilling of the well, the permit shall be returned to the supervisor for cancellation together with a new application for permit to drill at the new location. No transfer fee shall be required, but drilling shall not be commenced until the requested transfer has been approved by the supervisor and the new permit has been posted at the new location.

(2) Should the person who has obtained a permit to drill dispose of his interest in the well to a new owner before drilling is commenced, while the well is being drilled, or after the well has been completed, a notice of the change of ownership and a request for the transfer of the permit to the new owner shall be submitted to the supervisor in triplicate on forms prescribed by him. The transfer of the permit may be approved on receipt of a properly prepared request, including the signatures of the operator of record and the acquiring operator, and the required surety bond of the acquiring operator.

(3) Should the owner of record or the acquiring operator fail, neglect or refuse to file a notice of change of ownership and request the transfer of a permit for a producible well, the supervisor may require suspension of production from the well until the request for transfer has been filed and approved.

(4) Should the owner of record be under notice because of unsatisfactory conditions on the lease involved with the transfer of a permit, the supervisor may require suspension of production from the well on said lease until:

(a) The owner of record has corrected said unsatisfactory conditions and the permit has been transferred to the new owner; or until

(b) The acquiring operator by written agreement with the supervisor has corrected said unsatisfactory conditions and the permit has been transferred as provided herein.

(5) A permit for a well which has not been drilled, or for a well which is being drilled, may not be transferred to a person who is not in compliance with the statutes, rules, regulations, and orders as provided in R 299.1104.

History: 1954 ACS 37, p. 14, Eff. Feb. 14, 1964.

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R 299.1105a Suspension of production on default.

Rule 105a. Should the owner of record sell or dispose of a well without filing a notice of change of ownership and a request for transfer of the permit, the supervisor may require suspension of production from the well, including removal or sale of oil from the lease, until correction has been made of all unsatisfactory lease conditions and transfer of the permit has been completed as provided in R 299.1105(2).

History: 1954 ACS 69, p. 39, Eff. June 21, 1971.

R 299.1106 Surety bond; required.

Rule 106. A person who drills a well as provided in R 299.1101, or who acquires a well or wells as provided in R 299.1105, shall file a surety bond with the supervisor, on a form provided by the supervisor, which has been executed by a responsible surety company authorized to do business in the state of Michigan.

History: 1954 ACS 37, p. 15, Eff. Feb. 14, 1964; 1954 ACS 92, p. 18, Eff. July 13, 1977.

R 299.1107 Liability on the bond.

Rule 107. (1) The liability on the bond is conditioned on compliance with the law, rules, regulations, and orders of the supervisor and this liability shall continue until:

(a) The ownership of the well or wells has been assumed by another person and the permits have been transferred as provided in R 299.1105; or

(b) The well or wells have been abandoned and satisfactorily plugged in accordance with R 299.1801 to R 299.1810 and including the filling of cellars and all pits dug, constructed, or created as a result of the well or wells having been drilled, produced, or plugged, the removal of all debris, leveling of location, tank battery sites, and related areas, and this work has been approved by the supervisor; and until

(c) All logs, plugging records, and other pertinent information required by law, or the rules, regulations, or orders of the supervisor have been filed with and approved by the supervisor.

(2) In the event that the person shall be in default in any particular relative to the condition or conditions of the bond, the supervisor shall look to the surety for immediate compliance and fulfillment of the full conditions thereof and all expense in connection therewith shall be paid by the principal or the surety.

History: 1954 ACS 37, p. 15, Eff. Feb. 14, 1964.

R 299.1108 Surety bond; amount.

Rule 108. A person who drills a well shall file a bond for a single well in the amount of $5,000.00 or shall file a blanket bond for all wells in the amount of $50,000.00.

History: 1954 ACS 37, p. 15, Eff. Feb. 14, 1964; 1954 ACS 92, p. 18, Eff. July 13, 1977.

R 299.1109 Cancellation of blanket bond.

Rule 109. The surety may refuse to accept liability for additional wells under a blanket bond by giving 10 days' notice by registered mail to the supervisor. The bond shall continue in full force and effect on account of the well or wells for which permits were granted or transferred to the principal prior to the effective date of such notice. This procedure does not apply in the case of a single bond.

History: 1954 ACS 37, p. 15, Eff. Feb. 14, 1964.

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R 299.1110 Termination of bonds.

Rule 110. A bond shall be terminated only by the supervisor, and only under the following conditions:

(a) When an owner disposes of his well or wells and the permits for said well or wells have been transferred to a new owner as provided in R 299.1105; or

(b) When the well or wells have been plugged and all records filed and approved as provided in R 299.1107.

History: 1954 ACS 37, p. 16, Eff. Feb. 14, 1964.

R 299.1111 Notice of termination of bond.

Rule 111. The supervisor shall advise the surety and the principal when the liability under a bond has been terminated.

History: 1954 ACS 37, p. 16, Eff. Feb. 14, 1964.

R 299.1112 Termination of permit.

Rule 112. (1) A permit which was issued as provided in R 299.1101, or was transferred as provided in R 299.1105, including permits to deepen as provided in R 299.1313, and permit to rework as provided in R 299.1314, shall terminate 1 year after date of issuance if the well for which the permit was issued or transferred has not been drilled, deepened, or reworked, or is not being drilled, deepened, or reworked at that time.

(2) Terminated permits may not be reactivated or transferred, and there shall be no refund of the permit fee. Any drilling, deepening, or reworking at a location or well for which a permit has terminated shall require application for a new permit, payment of a new fee, and compliance with all other requirements of R 299.1101, R 299.1105, R 299.1313, and R 299.1314, when applicable.

(3) A bond filed to conform with a permit which has become terminated shall likewise terminate, and the surety and principal shall be advised accordingly.

History: 1954 ACS 37, p. 16, Eff. Feb. 14, 1964; 1954 ACS 92, p. 18, Eff. July 13, 1977.

LOCATION AND SPACING OF WELLS

R 299.1201 Location and spacing requirements.

Rule 201. The following are the requirements for the location and spacing of wells to be drilled for oil or gas, except for wells to be drilled in gas storage reservoirs, liquid petroleum gas storage reservoirs, unitized areas, and other specifically designated areas or geological formations where special spacing orders, rules or determinations are in effect:

(a) The drilling unit for wells to be drilled for oil or gas shall be a legal subdivision of 40 acres, more or less, defined as a governmental surveyed quarter-quarter section of land. It shall conform to 1 of the quarter-quarters of a governmental surveyed section of land, allowances being made for the differences in the size and shape of sections as indicated by official governmental survey plats.

(b) The supervisor may issue a permit to drill an exploratory well on a tract less than a 40-acre drilling unit which is not a part of a pooled or communitized drilling unit providing the application for permit is accompanied by a certified statement that a reasonable effort has been made to obtain the lease or leases or to obtain a communitization agreement to form the full 40-acre drilling unit and that such effort has failed. Should a discovery well be completed on such partial drilling unit, a full drilling unit shall be formed by voluntary or compulsory pooling. This pooled unit shall conform with the provisions of subdivision (a) or

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shall conform to a drilling unit to be adopted following public hearing in accordance with R 299.1203.

(c) The supervisor may issue a permit for the drilling of an off-pattern or partial drilling unit development well following notice and public hearing to determine the need or desirability of issuing such permit. Such wells, being located contrary to the drilling unit and spacing pattern established by these general regulations or contrary to an applicable spacing order of the supervisor, shall be subject to such restricted or adjusted allowables as the supervisor may deem necessary to insure they will produce only their just and equitable share of the oil and gas from the reservoir.

(d) A permit may be granted for the drilling of a well for oil or gas provided the location is at least 330 feet from an adjoining drilling unit as prescribed in subdivision (a) and when the location is approximately 1,320 feet from any adjacent well, unless the adjacent well has been located irregularly as an exception to the normal spacing or unless an applicable spacing order requires a different spacing of wells. The location for which such permit shall be granted shall be in the center of the drilling unit or in the center of 1 of the quarters thereof.

History: 1954 ACS 37, p. 16, Eff. Feb. 14, 1964.

R 299.1202 Location of development wells.

Rule 202. (1) Development wells to be located on drilling units within a 2-mile radius of a discovery well, or on the same apparent contiguous structure, shall be located in the same relative position in each drilling unit as that of the discovery well. This uniform spacing of wells shall be followed until such time as a special spacing order may be adopted following notice and public hearing as provided in R 299.2003.

(2) If said discovery well is located in the center of a quarter-quarter section of land, no permit shall be granted for the drilling of a development well within a 2-mile radius of such well, or on the same apparent contiguous structure, until a public hearing has been held to determine the need or desirability of adopting a special spacing order as provided in R 299.1203.

History: 1954 ACS 37, p. 17, Eff. Feb. 14, 1964.

R 299.1203 Adoption of special spacing orders.

Rule 203. The development of an oil or gas field following the completion of a discovery well may warrant the adoption of a drilling unit and well spacing pattern other than that specified in R 299.1201(a). Any interested person may request, or the supervisor may schedule, a hearing to consider the need or desirability of adopting a special spacing order to apply to a designated area, field, pool, or geological formation. The drilling unit established by such special spacing order may be smaller or larger than the basic 40-acre unit prescribed in R 299.1201(a).

History: 1954 ACS 37, p. 17, Eff. Feb. 14, 1964.

R 299.1204 Voluntary pooling.

Rule 204. The lessees or lessors, or both, of separate tracts or mineral interests which lie partially or wholly within an established drilling unit may pool or communitize such tracts or interests to form full drilling units and to develop such units in accordance with the provisions of these general regulations and any applicable orders of the supervisor.

History: 1954 ACS 37, p. 17, Eff. Feb. 14, 1964.

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R 299.1205 Compulsory pooling.

Rule 205. The supervisor may require the pooling of tracts or mineral interests within a drilling unit when the owners of such tracts or mineral interests have not agreed, or do not agree, upon the pooling of said interests to form full drilling units in accordance with these general regulations and any applicable spacing order. Such compulsory pooling shall be done on a basis which will permit each owner of an interest within a drilling unit the right and opportunity to receive his just and equitable share of the production from the unit. Compulsory pooling shall be adopted by the supervisor only after public hearing as provided in R 299.2004, after conference with and recommendation by the advisory board, for the purpose of preventing waste, and to prevent the drilling of unnecessary wells.

(2) Any interested person may file a petition for pooling order with the supervisor. The petition shall set forth the following items in addition to those specified in R 299.2004 and any other matters the petitioner may deem pertinent:

(a) The legal description of the drilling unit affected and identification of the applicable spacing order.

(b) The ownership of the interests within the drilling unit.

(c) Certified statements indicating in detail what action the petitioner has taken to obtain a voluntary pooling agreement.

(d) Whether or not the petitioner desires to drill the well on the said unit, and the recommendation of the petitioner as to what arrangements will be just and equitable to all owners within the drilling unit.

(e) The estimated costs of drilling, completing and equipping the well.

(3) The supervisor, upon receipt of an appropriate petition, shall schedule a hearing to be held on the matter within 30 days.

(4) A notice of hearing shall be furnished by the supervisor and shall be published as specified by the supervisor. Affidavits of publication and proof of service of the notice to interested persons shall be filed with the supervisor as provided in R 299.1004.

(5) Following a hearing on a petition for an order to pool, after thorough consideration of the evidence and testimony submitted, and after conference with and receipt of recommendations by the advisory board, the supervisor shall rule that pooling is not necessary to prevent waste or shall enter his order pooling the separately owned tracts and interests within the drilling unit. Such pooling order shall authorize one of the owners within the affected unit to drill the well thereon and provide that the well shall be commenced within 90 days or the pooling order shall be null and void as to all parties and interests. The order shall set forth the terms and conditions under which each of the owners may share in the working interest production from the well if it is producible. The order shall provide for conditions under which each owner who has not voluntarily agreed to pool may share in the working interest production or be compensated for his working interest within the drilling unit, to wit:

(a) Pay to the party authorized to drill the well his proportionate share of the cost of drilling, completing, and equipping the well, or give bond for the payment of such share of such cost promptly upon completion, whether as a producer or a dry hole; or

(b) Await the outcome of the drilling of the well and, if it be completed as a producer, allow the driller of said well to take out of the nonparticipating party's share of production therefrom said party's share of the cost of drilling, completing and equipping the well, plus such additional per cent of said costs as the supervisor may deem appropriate compensation for the risk of a dry hole, plus the nonparticipating party's share of operating costs.

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(6) The nonparticipating owner who has theretofore failed to agree to the drilling of the well shall make an election within 10 days of the date of the order as to which alternative, subrule (5)(a) or (b), he shall select. In the event that the nonparticipating party does not notify the supervisor in writing within 10 days of his election, he shall be deemed to have elected subrule (5)(b) and the party permitted to drill may proceed with the commencement of the well on this basis.

(7) In any pooling order, the owner of an unleased mineral interest will be treated as a working interest owner to the extent of ⅞ of this total interest and as a royalty owner or lessor to the extent of ⅛ of his total interest, the latter interest being free of any withholding for contribution to well costs.

(8) All operations, including, but not limited to, the commencement, drilling, completing, equipping, or operation of a well upon any portion of a drilling unit for which pooling has been ordered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit. That portion of the production allocated to a separately owned tract or separately owned interest included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from such tract or tracts by a well drilled thereon.

History: 1954 ACS 37, p. 17, Eff. Feb. 14, 1964.

R 299.1206 Preparation of well location to prevent pollution.

Rule 206. No drilling shall be commenced at a location where there is danger that oil, oily wastes, or salt water may escape into and pollute any stream or lake, or other body of water, until the owner shall have complied with the methods and means to prevent such pollution as have been specified by the supervisor.

History: 1954 ACS 37, p. 18, Eff. Feb. 14, 1964.

DRILLING

R 299.1301 Approved methods of preventing waste.

Rule 301. Any person drilling for or producing oil or gas for any purpose shall use every possible precaution in accordance with the most approved methods to stop and prevent waste of oil or gas, or both, in drilling or producing operations, storage, or in piping or distributing the same.

History: 1954 ACS 37, p. 18, Eff. Feb. 14, 1964.

R 299.1302 Rotary drilling.

Rule 302. The following rules on drilling procedure shall apply to wells drilled with rotary tools, except when special orders may be adopted to apply to specific reservoirs or areas:

(a) The drilling fluid used in a well drilled with rotary equipment shall be capable of sealing off each oil, gas, brine or fresh water stratum above the producing horizon or objective formation and of controlling blowouts and flows. The casing and sealing off and conditioning of drilling fluid shall be in accordance with good drilling practice and tested by such methods and means as may be prescribed or approved by the supervisor.

(b) Suitable surface pipe or casing shall be set through the glacial drift and through any fresh water occurring below the drift, and shall be cemented by the pump and plug method or displacement method with sufficient cement to circulate to the surface. Requests for exception to this requirement may be indicated on the application for permit or may be submitted in writing to the supervisor.

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(c) The cement used on the surface pipe or casing shall be allowed to set at static balance or under pressure for a minimum of 12 hours before drilling the plug.

(d) The use of blowout equipment in proved areas shall be in accordance with established practice or special rules applying in the area. A well in an unproved area shall be equipped with a master gate or its equivalent, adequate blowout preventer, and a flow line of the proper size and working pressure. The entire control equipment shall be in good working condition at all times. The outlets, fittings, and connections on the casing, blowout preventer, and auxiliary well head equipment which may be subjected to well head pressure shall be of material and construction that will stand any anticipated working pressure. The lines from outlets on or below the blowout preventers shall be securely anchored. A blowout preventer shall be installed above ground level.

(e) Blowout prevention equipment shall be pressure tested to a pressure commensurate with the objective formation before drilling the plug on the surface pipe, before encountering the objective formation, and at other intervals in accordance with good oil field practice. A record of each pressure test and each mechanical test of the casings, blowout preventers, surface connections and fittings, and auxiliary well head equipment shall be entered in the log book, signed by the driller, and kept available for inspection by the supervisor or his authorized representative.

(f) The production string of casing shall be cemented by an approved oil field method, properly tested by the pressure method, and allowed to set a minimum of 12 hours before the cement plugs are drilled.

History: 1954 ACS 37, p. 19, Eff. Feb. 14, 1964; 1954 ACS 69, p. 40, Eff. June 21, 1971.

R 299.1303 Cable tool and rotary-cable tool combination drilling procedures.

Rule 303. The following rules shall apply to wells drilled with cable tools or with rotary-cable combination tools, except when special orders of the supervisor apply to a specific reservoir or area:

(a) Drive pipe shall be landed through the glacial drift and shall be tested by bailing to insure a shut-off of waters encountered above the shoe. Rotary surface pipe on combination holes shall be set through the glacial drift or at a lower point suitable for changing over to cable tools in accordance with an approved casing and sealing program.

(b) Wells drilled with cable tools shall have the innermost string of casing equipped with a high pressure master gate valve, control head, and oil saver, or other approved combination of equipment, all securely anchored to the drive pipe or to a casing string before drilling into or through any formation known likely to contain oil or gas. The well head equipment installed to keep a well under control shall be in good working order when installed and maintained in good working order throughout its use on the well and shall be capable of being equipped with a bottle or lubricator when such control is necessary.

History: 1954 ACS 37, p. 19, Eff. Feb. 14, 1964.

R 299.1304 Pits for drill cuttings.

Rule 304. Drill cuttings from wells drilled shall be confined by a pit or pits of proper size and construction and located in close proximity to the well bore.

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964; 1954 ACS 92, p. 18, Eff. July 13, 1977.

R 299.1305 Requests for exceptions.

Rule 305. Requests for exception to any of these rules may be included in the application for permission to drill or may be submitted in writing to the

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supervisor. Such requests will be granted when they conform with good oil field practice and when wells are located in areas where it is known conditions are not hazardous.

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964.

R 299.1306 Casing and sealing.

Rule 306. (1) Every person who drills a well as provided in R 299.1101, or causes such a well to be drilled, shall case and seal off each oil, gas, brine, or fresh water stratum above the producing horizon or objective formation to prevent effectively the migration of oil, gas, brine or fresh water to other strata.

(2) The casing used in the drilling and completing of any well is not to be pulled from the well, except when it is necessary to pull and reset a string of casing to obtain a satisfactory casing seat, until approval for such removal has been received from the supervisor.

(3) Wells to be drilled through reservoirs being operated for secondary recovery or for gas storage shall have the casing set through such reservoirs adequately cemented. Only rotary drilling equipment shall be used, with blowout prevention equipment installed, while drilling through gas storage reservoirs. The cementing procedure to be followed is to be approved by the supervisor.

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964.

R 299.1307 Producing from different reservoirs through same string of casing.

Rule 307. No well shall be permitted to produce either oil or gas from different pools through the same string of casing without first receiving permission from the supervisor. (See R 299.1407, pertaining to the commingling of oil and gas production.)

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964.

R 299.1308 Steel line measurements.

Rule 308. The depth to the top of key formations shall be determined by the use of a steel measuring line or other accurate method. Drill pipe measurements may be made on wells drilled with rotary equipment. Such measurements and corrections, and their vertical extent and direction, shall be entered in the drilling log book and become a part of the record and log of the well.

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964.

R 299.1309 Well records.

Rule 309. (1) A person who drills a well as provided in R 299.1101 shall keep and preserve at the well accurate records of the drilling, reworking, or deepening of the well, showing all formations penetrated, casing used, and other pertinent information as may be required by the supervisor in connection with the drilling of the well. All information shall be available to the supervisor or his authorized representative at all times. The records shall be protected from damage or destruction from any preventable cause.

(2) When requested by the supervisor, the operator shall file a copy of service company records, including, but not limited to, records of mudding, cementing and squeeze jobs, acidizing, perforating, fracturing, shooting, temperature surveys, bond logs, and caliper surveys.

(3) The supervisor shall respect the right of the operator to keep drilling information and other related data confidential before completion of a well.

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However, the supervisor may require the receipt of these data during drilling operations when a hazardous or emergency situation exists before completion.

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964; 1954 ACS 69, p. 40, Eff. June 21, 1971.

R 299.1310 Samples of drill cuttings.

Rule 310. Every person who drills a wildcat or exploratory well as provided in R 299.1101 shall take and preserve adequate samples, properly identified, of the drill cuttings encountered from the base of the drift to the total depth. Similar samples shall be taken and preserved during the drilling of development or field wells when requested by the supervisor. Drift samples shall be taken and preserved when specifically requested by the supervisor. These samples shall be available to the supervisor upon request. One complete set of samples in approved sample bags shall be delivered to the supervisor at his office or district office, to a specified laboratory or washing station, or as otherwise designated, within 30 days after completion of the well. No samples, or sets of samples, gathered for the supervisor shall be destroyed at a well or elsewhere without the permission of the supervisor.

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964.

R 299.1311 Well log to be filed.

Rule 311. (1) Every person who drills a well, as provided in R 299.1101, shall file with the supervisor, within 30 days after the drilling, acidizing, fracturing, and testing incidental to the completion of the well have been accomplished, a complete log or record of the well, duly signed, on forms prescribed by the supervisor. This record shall be filed although samples of the drilling cuttings have been taken and saved.

(2) A proper log on any well shall include all normally recorded information on the following:

(a) Depth to and thickness of water-bearing sands and gravels in the glacial drift, including fill-up and volumes of such water.

(b) Lithology of formations penetrated, including color, hardness, and character of the rock.

(c) A record of all oil, gas, and salt water encountered, including fill-up, volumes, and pressures.

(d) A record of all casing and liners used, including the size, weight, and amount and depth set, the amount of cement used on each casing string, and the amount of casing stripped from the hole on completion of the well.

(e) Data on drill stem tests.

(f) Generalized core descriptions.

(g) Data on perforating, acidizing, fracturing, shooting, and testing.

(h) Data on bridge plugs set, make and type of plug, depth set, whether left in place or removed, and detail of plug back operation below the bridge.

(3) All logs on any well may be kept confidential for a period of 90 days after completion of the well or suspension of drilling operations by filing a written request with the supervisor.

History: 1954 ACS 37, p. 20, Eff. Feb. 14, 1964.

R 299.1312 Electric or radiation-type logs.

Rule 312. (1) A copy of all electric or radiation-type logs, when they are run, shall be filed with the supervisor within 30 days after completion of the well. Such logs may be kept confidential in the same manner as provided in R 299.1311.

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(2) Copies of electric or radiation-type logs shall not be made available for sale by the supervisor or otherwise distributed to any person or operator.

History: 1954 ACS 37, p. 21, Eff. Feb. 14, 1964.

R 299.1313 Deepening operations.

Rule 313. (1) Every person who desires to deepen a well below the depth at which it was completed originally shall file an application for permission to deepen with the supervisor. The application shall set forth in detail the new proposed total depth and the plan for casing and sealing off any oil, gas, brine, or fresh water strata to be found, or expected to be found, in the deepening operation. A deepening permit is to be issued when the application has been approved by the supervisor. Actual deepening operations are not to be commenced until the deepening permit has been posted at the well location.

(2) Samples of the drill cuttings shall be saved during deepening operations in the same manner as provided in R 299.1310 during the original drilling operation.

(3) Every person who deepens a well shall file with the supervisor a complete log of the deepening, duly signed, on forms prescribed by the supervisor. The log or record shall be filed within 30 days after the deepening, shooting, initial acidizing and testing have been completed. The log is to be filed even though samples of the drill cuttings have been taken and saved.

(4) Copies of electric or radiation type logs, when they are run during the deepening operation, shall be filed with the supervisor in the same manner as provided in R 299.1312.

History: 1954 ACS 37, p. 21, Eff. Feb. 14, 1964.

R 299.1314 Rework operations.

Rule 314. (1) Every person who desires to rework a well by plugging back, converting for brine disposal, converting for secondary recovery, repressuring, or flooding with gas or water, converting for use as an observation well, stripping of casing strings, multiple completion, or otherwise changing the status of a well by any operation except additional acid or other stimulation treatment, shall file an application for permission to rework with the supervisor. The application shall set forth in detail the kind of rework operation to be accomplished and the plan for protecting all oil, gas, brine or fresh water strata which the well has penetrated.

(2) Applications for permission to rework for the disposal of salt water, or use in secondary recovery or pressure maintenance, shall be filed in accordance with the provisions of R 299.1606 or R 299.1701, respectively.

(3) Every person who changes the status of a well by rework operation shall file with the supervisor a complete well rework record on forms prescribed by the supervisor. The well rework record shall be filed within 30 days after the final completion of the rework operation.

History: 1954 ACS 37, p. 21, Eff. Feb. 14, 1964.

R 299.1315 Directional drilling.

Rule 315. (1) "Directional drilling," as used in this rule, means the intentional changing of the direction of a well bore from the vertical when drilling. A person who desires to drill a well, or rework a well, or to otherwise intentionally deflect a hole from the vertical, shall first obtain a permit to drill as provided in R 299.1101, or shall obtain permission to rework as provided in R 299.1314.

(2) The supervisor may issue a permit for directional drilling of a well or may grant permission for the reworking of a well by directional drilling. The

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supervisor may require notice and a public hearing to determine the need or desirability of such an operation.

(3) The application for permission to drill a well directionally, or to rework a well by directional drilling, shall include, in addition to the normally required information, the depth at which deviation from vertical is planned and the proposed objective of the well as to its direction and horizontal distance from the surface location at its final depth.

(4) The supervisor may require directional drilling of a well when it is considered essential to protect specific values, such as a stream, lake, project area, park, building, highway, or natural or developed feature.

History: 1954 ACS 37, p. 22, Eff. Feb. 14, 1964; 1954 ACS 69, p. 40, Eff. June 21, 1971; 1954 ACS 92, p. 18, Eff. July 13, 1977.

R 299.1316 Survey of directionally drilled well.

Rule 316. A well survey shall be made on each directionally drilled well immediately following the completion of the drilling and before setting the final string of casing to determine the exact course of the hole. This survey shall be made available immediately to the supervisor. A certified copy of this survey shall be filed with the supervisor within 30 days after completion of the survey.

History: 1954 ACS 37, p. 22, Eff. Feb. 14, 1964.

R 299.1317 Production from directionally drilled wells.

Rule 317. The production from directionally drilled wells completed contrary to the established well spacing pattern shall be limited or restricted in the same manner as provided in R 299.1201(c) for regularly drilled wells located contrary to the applicable spacing pattern. No allowable shall be assigned or production permitted from a directionally drilled well until a certified well survey has been furnished to the supervisor.

History: 1954 ACS 37, p. 22, Eff. Feb. 14, 1964.

R 299.1318 Drilling to completion.

Rule 318. The owner or operator of a drilling well which has been shut down in excess of 90 days, or if such well may be causing waste, contamination, or pollution, shall upon request of the supervisor show cause why the well should not be considered as an abandoned well and subject to the provisions herein applying to abandoned wells. An extension of time in excess of the 90 days may be granted by the supervisor upon receipt of a written request specifying suitable cause or need for such extension.

History: 1954 ACS 37, p. 22, Eff. Feb. 14, 1964.

R 299.1319 Shutting down drilling operation.

Rule 319. The supervisor shall have the authority to shut down any drilling operation at which the owner or operator, or his authorized representative, is not complying or has not complied with the rules, regulations, or orders of the supervisor which pertain to the drilling or completion of such well. Such shut down time shall continue until correction has been made and there is compliance with the rules, regulations, or orders of the supervisor.

History: 1954 ACS 37, p. 22, Eff. Feb. 14, 1964.

R 299.1320 Stripping of casing.

Rule 320. (1) The pulling or stripping of a string of casing from any well shall be prohibited except under the following circumstances:

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(a) When provision is made for the removal of casing in the casing and sealing program specified in the application for permission to drill.

(b) When casing is pulled and reset in the same formation to obtain a satisfactory casing seat.

(c) When a well is being plugged back or is being plugged to the surface in accordance with rework or plugging procedure prescribed herein.

(2) The annular space left open and the formations exposed by the approved pulling and stripping of casing shall be sealed by a material adequate to prevent the migration of oil, gas, brine, or fresh water from one strata to another.

History: 1954 ACS 37, p. 22, Eff. Feb. 14, 1964.

R 299.1321 Lost holes.

Rule 321. (1) A revised application indicating the new location and corrected footages shall be filed with the supervisor when a hole has been lost and it is necessary to skid or move to start a new hole. No new or additional fee will be required provided the new location is on the same quarter-quarter-quarter section (10 acres) as the lost hole.

(2) Delay in skidding a rig or moving to a new location because of a lost hole may be avoided by contacting the Lansing office of the geological survey division in person or by telephone for permission to make the move. Approval shall be granted immediately provided:

(a) The new location will be made at a minimum distance from the lost hole.

(b) The new location will not be closer than 330 feet from the lines of the drilling unit.

(c) There are no lakes, streams, drainageways, or marshes within 300 feet, or buildings or other structures within 75 feet of the new location.

(d) Provided a new revised application shall be filed promptly.

(3) A lost hole shall be plugged promptly and in accordance with the provisions in these general regulations which pertain to the plugging of wells.

(4) A well log and well plugging record shall be filed on all lost holes in accordance with the provisions in these general regulations which pertain to regularly drilled and completed wells.

History: 1954 ACS 37, p. 23, Eff. Feb. 14, 1964.

R 299.1322 Service company records.

Rule 322. When requested by the supervisor, an operator or his representative shall file service company records pertaining to cementing, acidizing, perforating, hydraulic fracturing, shooting, temperature surveys, caliper surveys, or other operations regarding the status of a well or wells.

History: 1954 ACS 37, p. 23, Eff. Feb. 14, 1964.

PRODUCTION

R 299.1401 Use of earthen reservoirs.

Rule 401. Oil shall not be stored or retained in earthen reservoirs or open receptacles.

History: 1954 ACS 37, p. 23, Eff. Feb. 14, 1964.

R 299.1402 Use of vacuum pumps.

Rule 402. Vacuum pumps or other devices shall not be used for the purpose of creating a partial vacuum in any formation producing, or capable of producing,

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oil or gas, except upon written permission of the supervisor and the offset operators.

History: 1954 ACS 37, p. 23, Eff. Feb. 14, 1964.

R 299.1403 Production of carbon black.

Rule 403. The production of carbon black within the state of Michigan by the process of burning natural gas is prohibited except on written approval of the supervisor.

History: 1954 ACS 37, p. 23, Eff. Feb. 14, 1964.

R 299.1404 Tubing and producing of flowing wells.

Rule 404. Each flowing oil well shall be tubed immediately, and if not tubed within 5 days after commencement of flow, the well will be shut in; provided, however, that where it is shown from the written petition filed by the producer and from an investigation by the supervisor that the well or wells involved have such high gas pressure or large oil producing capacity that the immediate tubing of such well or wells would place the persons tubing same in imminent danger of their lives or injury to their persons, or result in waste or great property damage, the supervisor may grant a reasonable extension or extensions of time to tube such well or wells. Tubing shall not be required in casing 2⅞ inches or less in diameter.

History: 1954 ACS 37, p. 23, Eff. Feb. 14, 1964.

R 299.1405 Maintaining back pressure in flowing and pumping wells.

Rule 405. The well head of each flowing or pumping well shall be so equipped that there will be no uncontrolled escape of gas to the air; provided, however, that where it is shown from the written petition filed by the producer and from the investigation made by the supervisor that the well or wells involved cannot be produced when so equipped, the supervisor shall grant such reasonable exceptions as may be necessary.

History: 1954 ACS 37, p. 23, Eff. Feb. 14, 1964.

R 299.1406 Multiple zone completions.

Rule 406. (1) Multiple zone completion shall mean the completion of any well so as to permit the production from more than 1 common source of supply with such common sources of supply completely segregated.

(2) A public hearing shall be scheduled to determine the need or advisability of approving an application for a multiple zone completion. A field-wide order permitting multiple zone completions may be adopted by the supervisor following a public hearing on the matter.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

R 299.1407 Commingling of oil and gas production.

Rule 407. The producing of oil and gas from 2 or more reservoirs through the same string of casing shall be permitted only upon written application and approval by the supervisor. A public hearing shall be scheduled to determine the need or desirability of approving the application. A field-wide order permitting commingling of oil or gas may be adopted by the supervisor following a public hearing.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

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R 299.1408 Gas limitations and gas-oil ratios.

Rule 408. No well shall be permitted to produce gas in excess of the maximum allowable determined for a pool unless all gas produced in excess thereof is returned to the pool from which it was produced. Gas-oil ratios contributing to waste shall be subject to restriction by the supervisor.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

R 299.1409 Production from directionally drilled wells.

Rule 409. No allowable shall be assigned or production permitted from a directionally drilled well until a certified well survey has been furnished to the supervisor. Directionally drilled wells completed at a point in the objective formation which is contrary to the established well spacing pattern shall be limited or restricted in the same manner as provided for regularly drilled wells located contrary to such spacing.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

R 299.1410 Central production facility.

Rule 410. (1) "Central production facility," as used in this rule, means the consolidation of production equipment at 1 central location for the express purpose of separating, metering, holding, and marketing of oil and gas production from 2 or more productive units of diverse ownership.

(2) If an owner or operator of 2 or more leases desires to consolidate production operations through use of a central production facility, that person shall file with the supervisor a written request for approval of such facility. The request shall include a detailed description and plan of the proposed facility and an environmental impact assessment. The request shall be reviewed for accuracy, adequacy, and suitability and an on-site field review shall be made. Notice and a public hearing may be required pursuant to R 299.2001 and R 299.2004.

History: 1954 ACS 92, p. 19, Eff. July 13, 1977.

PRORATION

R 299.1501 Proration of oil and gas pools and fields.

Rule 501. The proration of production from any oil or gas pool or field shall be established by order of the supervisor following a public hearing before the supervisor and the advisory board. The supervisor, after due consideration of the evidence and testimony submitted at the hearing and the recommendation made by the advisory board, shall determine the allowables of oil and gas to be specified by such order.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

R 299.1502 Method of prorating wells.

Rule 502. The proration order shall specify the maximum amount of oil and gas which may be produced per well per 24-hour day for wells completed in conformance with an established drilling unit and well spacing pattern.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

R 299.1503 Calculation of allowable production.

Rule 503. The allowable production from any well shall be calculated on a calendar monthly basis and shall amount to the daily allowable multiplied by the number of days in the month. The total well allowable for wells completed during the month shall be computed only for the number of days in the month following

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the completion date of the well, including such completion date. The completion date for computing monthly allowable production shall be the first date during which a well produces its full daily allowable of oil or gas. Previous to the first day of full production, the allowable from any newly completed well shall be only the oil actually produced.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

R 299.1504 Tolerance from regularly calculated production.

Rule 504. (1) The producer and purchaser of oil and gas from a prorated lease shall be allowed a tolerance not to exceed 1 day's allowable production from each well on the lease for any calendar month, provided such overproduction or underproduction are adjusted during the next calendar month.

(2) If some emergency condition arises beyond the control of a producer or purchaser which prevents the producer from producing his regularly scheduled allowable production or the purchaser from running his regularly scheduled amounts of oil or gas during a calendar month, greater in amount than 1 day's allowable production, either 1 or both may apply in writing to the supervisor for permission to make up such underages.

(3) If a producing well is completed during the last 7 days of a calendar month on any lease that is located in a pool or field which is being prorated, the producer and the purchaser may apply in writing to the supervisor for permission to adjust any overproduction and overruns from such a well that may have been necessary incident to its completion during the succeeding calendar month.

(4) Any application made under subrules (2) and (3) above shall set forth all facts pertinent to the matter. The supervisor shall consider the application and after doing so may give permission in writing to make adjustment under such terms and conditions as may be prescribed.

History: 1954 ACS 37, p. 24, Eff. Feb. 14, 1964.

R 299.1505 Production from well drilled on tract smaller than full drilling unit.

Rule 505. Each producing well on a tract less than a full drilling or producing unit shall produce only in the ratio of the area of such tract to the area of the full drilling or producing unit prescribed for the field or pool in which such tract is located.

History: 1954 ACS 37, p. 25, Eff. Feb. 14, 1964.

R 299.1506 Transfer of allowables between wells on multiple well leases not permitted.

Rule 506. Where there is more than 1 producing oil or gas well on a lease, no well shall be permitted to produce oil or gas above the allowables provided in R 299.1504 and R 299.1505 to make up for failure of any other well or wells on the same lease to produce a full allowable or allowables.

History: 1954 ACS 37, p. 25, Eff. Feb. 14, 1964.

R 299.1507 Wells losing production during one monthly production period are not permitted to make up during a subsequent period or from other wells.

Rule 507. Should any well be partially shut down or for any reason is off production for any portion or portions of any calendar monthly period, such well shall not be permitted during any subsequent calendar monthly period to make up for any oil or gas production that may have been lost because of such shut down or off production period except as allowed under rule of tolerance (R 299.1504)

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and no other well on the same lease shall be permitted to produce any extra oil or gas to make up for such lost production.

History: 1954 ACS 37, p. 25, Eff. Feb. 14, 1964.

R 299.1508 Tanks or separators on multiple well leases to be hooked up so that each well may be tested separately.

Rule 508. Each well shall be so hooked up or connected to separators or stock tanks that its oil or gas production may be segregated from oil or gas from all other wells and that individual gauges of daily oil and gas production of each well may be made.

History: 1954 ACS 37, p. 25, Eff. Feb. 14, 1964.

R 299.1509 Regular producing capacity tests and reports for wells producing under oil allowable only.

Rule 509. (1) Upon the issuance of a proration order establishing the oil withdrawal rates from a field or pool, monthly producing tests to establish the oil and water capacity of each well shall be made within each calendar month. At such time as the producing reservoir has been reasonably defined and further development seems limited monthly capacity tests and reports may be supplanted, at the discretion of the supervisor, by a quarterly report with all tests to be made in the last month of the quarter.

(2) The results of such tests, whether monthly or quarterly, shall be filed with the supervisor on forms prescribed by him no later than the tenth day of the month following the month in which the wells were tested.

History: 1954 ACS 37, p. 25, Eff. Feb. 14, 1964.

R 299.1510 Regular producing capacity tests and reports for wells producing under both oil and gas allowable.

Rule 510. (1) Should a field or well be subject to a proration order limiting both the oil and gas allowable, then specific test procedures will be adopted for such field or well.

(2) The specific test requirements, such as frequency of tests and test conditions, will be those which are reasonably adaptable to particular field conditions. If convenient and desirable, the supervisor may set forth test requirements in conjunction with the proration order following a public hearing.

(3) If test requirements are not set forth in the proration order, then R 299.1509 will apply until such time as specific test requirements and procedures are issued for the field. The supervisor may amend or abrogate any previously adopted test requirement, or set up new test requirements, when necessary in order to adapt to changing field conditions.

(4) Neither a wide open test nor a full 24-hour test will be required (R 299.1509, R 299.1510) for any well that has a producing capacity in excess of its daily allowable. No wide open capacity test of any well shall be made if such test will create waste or result in coning of gas or water. All gauges and tests shall be made by such methods and at such times as will result in determination of the true productive capacity of the wells under normal operating conditions. Reports shall be certified by the operator or his representative who is responsible for administration and execution of the tests.

History: 1954 ACS 37, p. 25, Eff. Feb. 14, 1964.

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R 299.1511 Producing capacity tests on a newly completed well or wells following repairs.

Rule 511. Special daily producing capacity tests shall be made of any newly completed well or of any previously tested well when rework or any commercial or mechanical stimulation of such well may have resulted in changes in producing capacity. Such special tests shall be made within 10 days after completion of drilling, rework, or treatments and shall be reported within 10 days after completion of drilling, rework, or treatments and certified on forms provided by the supervisor.

History: 1954 ACS 37, p. 26, Eff. Feb. 14, 1964.

R 299.1512 Special producing capacity tests by operator.

Rule 512. The owner or operator of any well who believes that a previously reported test has represented less than the true average regular daily production capacity of a well may make a new special test of such well, and report and certify the results of such test to the supervisor on forms provided by him.

History: 1954 ACS 37, p. 26, Eff. Feb. 14, 1964.

R 299.1513 Special producing capacity tests by the supervisor.

Rule 513. The supervisor or his representative may call upon any owner or operator of any well as any time, either with or without previous notice, which notice may be directed to the operator, or his foreman, for a special producing capacity test of such well and the supervisor or his representative may supervise such test or make gauges incident to such test.

History: 1954 ACS 37, p. 26, Eff. Feb. 14, 1964.

R 299.1514 Producers responsible for regulating production and making required tests.

Rule 514. Each operator, owner or producer of oil or gas shall be responsible for regulating production from wells under his operating control so that no individual well shall produce more oil or gas than permitted by the rules and orders of the supervisor.

History: 1954 ACS 37, p. 26, Eff. Feb. 14, 1964.

R 299.1515 Reservoir pressure and associated data.

Rule 515. (1) The supervisor may require that subsurface pressures, gas-oil ratios, and associated tests be conducted and submitted on discovery and subsequent early development wells so that virgin reservoir data may be determined.

(2) Field- or pool-wide reservoir subsurface pressure and gas-oil ratio surveys may be required at periodic intervals as may be deemed necessary by the supervisor in maintaining current reservoir performance data.

History: 1954 ACS 37, p. 26, Eff. Feb. 14, 1964.

R 299.1516 Data requested to be supplied by lease supervisory employees.

Rule 516. Requests for data shall be directed to lease supervisory personnel to give full information as to production from, producing capacity of, and test procedure or results at each well or any other matter referring to lease or well development, operation, or production to the supervisor or his representative.

History: 1954 ACS 37, p. 26, Eff. Feb. 14, 1964.

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R 299.1517 Reports of oil and gas produced, purchased, or transported.

Rule 517. Every person who is producing, purchasing, or transporting oil or gas in any prorated oil or gas field shall report on or before the tenth day of each calendar month to the supervisor at Lansing the amount of oil produced, purchased, or transported by him from each lease during the preceding calendar month. Such reports shall be on forms provided by the supervisor and shall be sworn to by such person or his representative.

History: 1954 ACS 37, p. 26, Eff. Feb. 14, 1964.

BRINE DISPOSAL

R 299.1601 Prevention of pollution, contamination, or damage by brine or salt water.

Rule 601. Brine or salt water resulting from oil and gas drilling and producing operations shall be stored, transported, and disposed of in such manner as may be approved by the supervisor. Any brine disposal procedure which results or may result in the pollution of surface or underground fresh water resources is prohibited.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

R 299.1602 Disposal of brine or salt water.

Rule 602. Brine or salt water produced in the drilling for or production of oil or gas shall be returned to an approved underground formation or otherwise disposed of as approved by the supervisor where it cannot do damage to any fresh water, oil, gas, or other minerals. Brine shall not be run to earthen reservoirs or ponds, except for such reasonable time and under conditions which may be approved by the supervisor.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

R 299.1603 Brine disposal wells.

Rule 603. Brine disposal wells may be drilled for the purpose of disposing of brine or salt water produced in the drilling for or production of oil or gas as provided in R 299.1101, or they may be wells reworked for this purpose as provided in R 299.1314. Brine disposal wells shall be so completed that the injection of brine shall be into a formation approved by the supervisor.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

R 299.1604 Casing and sealing of disposal wells.

Rule 604. Wells drilled or reworked for the disposal of brine shall be cased and sealed to prevent the loss or injection of brine into any unapproved formation.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

R 299.1605 Use of annular space for brine disposal.

Rule 605. (1) The disposal of brine into the annular space between strings of casing is prohibited. The supervisor may grant an exception to this prohibition, and may require notice and a public hearing to determine the need or desirability of granting such an exception.

(2) Annular space disposal wells currently in use on the effective data of this rule shall cease operations within 2 years of that date, unless an exception is granted as provided in subrule (1).

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964; 1954 ACS 92, p. 19, Eff. July 13, 1977.

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R 299.1606 Disposal of brine into producing formation.

Rule 606. A person making application for permission to drill a well or to rework a well for the disposal of brine into a producing formation shall notify all offset operators by certified mail of such intention. Copies of such letters of notification shall be filed with the application for disposal of brine. Should an offset operator protest to the supervisor within 10 days after the date of the letter of notification, a hearing shall be scheduled to determine the need or desirability of granting permission for the proposed brine disposal operation. The supervisor may approve the application and grant permission for the proposed brine disposal operation if no protests are received as specified.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

SECONDARY RECOVERY AND PRESSURE MAINTENANCE

R 299.1701 Establishing secondary recovery or pressure maintenance operation.

Rule 701. Any person desiring to inject water, gas, air, or other fluid into a producing formation for the purpose of secondary recovery or pressure maintenance shall file an application for permission to the supervisor. The supervisor shall schedule a public hearing in accordance with R 299.2004 to receive evidence and testimony pertaining to the need or desirability of approving the application.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

R 299.1702 Casing and cementing of injection wells.

Rule 702. Wells drilled or reworked for use in the injection of fluids shall be adequately cased and sealed to prevent injection or migration of fluids into any strata or formation other than the objective formation.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

R 299.1703 Notice of commencement and discontinuance of injection operations.

Rule 703. The operator of any secondary recovery or pressure maintenance injection project shall notify the supervisor promptly of the commencement or abandonment of injection operations. A notice of abandonment of injection operations shall include the date and reasons for abandonment, the status of all wells, and the intentions for the further use or disposition of such wells.

History: 1954 ACS 37, p. 27, Eff. Feb. 14, 1964.

R 299.1704 Filing records and reports.

Rule 704. The operator of a secondary recovery or pressure maintenance project shall keep accurate records of all oil and gas produced, volumes of fluids injected, and injection pressures. Reports of these data and such other data as may be required shall be filed with the supervisor at regular intervals as specified.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964.

PLUGGING

R 299.1801 Notification of intention to abandon and plug well.

Rule 801. No person shall begin the plugging of any well until he first shall have notified the supervisor of his intention to abandon such well and received instructions for the plugging operation. The notification shall provide the date plugging is to be commenced, by whom the well is to be plugged, and the equipment to be used in plugging the well. It shall also include the present

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condition of the well, such as the sizes and lengths of all casing strings, the depths to the top of all principal formations, the depths where oil, gas, and water were encountered, and the proposed method for handling of unusual or hazardous conditions.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964.

R 299.1802 Plugging instructions.

Rule 802. The supervisor shall issue instructions for the plugging of a well following receipt of notification as provided in R 299.1801. These instructions shall specify the type and amount of plugging material to be used, the depths at which bridges are to be set, the depths and lengths of cement plugs, and any special requirements which may be necessary for the proper plugging of the well.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964.

R 299.1803 Commencement of plugging operations.

Rule 803. (1) Plugging operations on all abandoned wells shall commence within 60 days after completion as a dry hole or after production has ceased for 12 consecutive months. The supervisor may set a hearing to show cause why such a well should not be plugged. If the supervisor, after reviewing the evidence presented at the hearing, finds that there are no good and sufficient reasons for retaining the well, he may order the well plugged.

(2) The supervisor may grant an extension of time for commencing the plugging operations after having received a written request and after finding that the request is reasonable.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964; 1954 ACS 92, p. 19, Eff. July 13, 1977.

R 299.1804 Method and material to be used in plugging.

Rule 804. All oil, gas, brine, and fresh water shall be confined to the strata in which they occur by the use of mud-laden fluid, cement, other suitable material, or combinations thereof. The amount, type, and kind of material and the method of placement shall be prescribed or approved by the supervisor.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964.

R 299.1805 Pulling of surface pipe and drive pipe.

Rule 805. A surface pipe or drive pipe shall not be pulled at any location unless it is determined by the supervisor to be necessary.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964; 1954 ACS 69, p. 41, Eff. June 21, 1971.

R 299.1806 Plugging at surface.

Rule 806. The surface pipe or drive pipe abandoned with the hole shall be cut off at a point below plow depth and a cement plug, welded plate, or other seal approved by the supervisor shall be placed at or near the top of the pipe.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964.

R 299.1807 Plugging of rat holes.

Rule 807. The rat hole and mouse hole on all rotary drilled wells shall be plugged to the surface.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964.

R 299.1808 Rescinded.

History: 1954 ACS 37, p. 28, Eff. Feb. 14, 1964; rescinded 1954 ACS 92, p. 19, Eff. July 13, 1977.

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R 299.1809 Filling and leveling of cellars, pits, and excavations; removal of debris; restoration of well site.

Rule 809. Following the completion of plugging to the surface, the owner shall fill and level the cellar and all pits and excavations, shall remove or eliminate debris, shall eliminate all conditions which may create a fire or pollution hazard, and shall restore the well site as nearly as possible to the original land contour or to a condition acceptable to the supervisor.

History: 1954 ACS 37, p. 29, Eff. Feb. 14, 1964; 1954 ACS 92, p. 19, Eff. July 13, 1977.

R 299.1810 Plugging records to be filed.

Rule 810. A complete and certified record of the plugging of the well shall be filed by the owner on forms prescribed by the supervisor within 30 days after the plugging work is completed.

History: 1954 ACS 37, p. 29, Eff. Feb. 14, 1964.

R 299.1811 Rescinded.

History: 1954 ACS 37, p. 29, Eff. Feb. 14, 1964; rescinded 1954 ACS 92, p. 19, Eff. July 13, 1977.

PREVENTION OF FIRES AND POLLUTION AND DANGER OR DESTRUCTION OF PROPERTY AND LIFE

R 299.1901 Well and tank locations to be cleared.

Rule 901. (1) The area around a drilling operation shall be cleared of brush, slash, weeds, and other flammable material for a radius of 75 feet, or larger when specified by the supervisor, using the well as the center point. The supervisor, if conditions warrant, may approve clearance of a smaller area, and may also require construction of a fire line around the outer edge of the cleared area. Material resulting from the clearing operations shall be disposed of in a manner approved by the supervisor before commencement of drilling operations.

(2) The area for a distance of 75 feet, or larger when specified by the supervisor, around an oil and gas well, storage tank or tank battery, and oil heating or treating installation shall be kept free of oil, brush, slash, weeds, or any other material which creates or may create a fire hazard. The supervisor, if conditions warrant, may approve maintenance of a smaller area.

History: 1954 ACS 37, p. 29, Eff. Feb. 14, 1964; 1954 ACS 69, p. 41, Eff. June 21, 1971.

R 299.1902 Pits to be filled at producing sites.

Rule 902. Slush pits and well cellars at all wells shall be filled and levelled or covered within a reasonable time after the completion of the well. Debris shall be removed or eliminated, and all conditions which may or will create a fire or pollution hazard shall be eliminated.

History: 1954 ACS 37, p. 29, Eff. Feb. 14, 1964.

R 299.1903 Safety signs.

Rule 903. An operator or transportation agency shall post safety signs, approved by the supervisor, in conspicuous places around a drilling operation, producing well, storage tank, and transportation facility when special hazards to life and property exist.

History: 1954 ACS 37, p. 29, Eff. Feb. 14, 1964; 1954 ACS 69, p. 41, Eff. June 21, 1971; 1954 ACS 92, p. 19, Eff. July 13, 1977.

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R 299.1904 Fire walls or dikes.

Rule 904. (1) All lease, stock, and oil storage tanks shall be protected by an approved fire wall or dike, which wall shall form a reservoir having a capacity of 1½ times the capacity of the enclosed tank or tank battery. Such tank or tank battery shall not be erected, enclosed, or maintained closer than 200 feet from any drilling or producing well or other oil storage tanks. The dikes shall be maintained and the reservoir kept free of oil, emulsions, tank bottoms, brine, fresh water, vegetation, debris, or any flammable material.

(2) All oil heating or treating installations shall be protected by a fire wall or dike which shall be of such size and construction as may be approved by the supervisor. Dikes shall be maintained in good condition, and reservoirs formed by these dikes shall be kept free of fresh water, brine, oil, vegetation, debris, or any flammable material. Such installation shall not be erected, enclosed, or maintained closer than 75 feet from any drilling or producing well or oil storage tank or tank battery.

History: 1954 ACS 37, p. 29, Eff. Feb. 14, 1964.

R 299.1905 Handling waste oil and tank bottoms.

Rule 905. Waste oil and tank bottoms shall be collected in approved tanks or receptacles located not less than 100 feet from any oil well, lease stock, or oil storage tanks, and shall be removed as often as is necessary to prevent overflow. The area for a distance of 25 feet around these approved tanks or receptacles shall be cleared and kept free of flammable material if, in the opinion of the supervisor, special fire hazards exist. Waste oil and tank bottoms shall be conveyed from the storage tanks to the approved tanks or receptacles in a manner that does not create additional fire hazards or cause damage to, or destruction of, property or life. Earthen pits shall not be used to collect waste oil and tank bottoms. Waste oil and tank bottoms shall be disposed of pursuant to water resources commission and air pollution commission rules.

History: 1954 ACS 37, p. 30, Eff. Feb. 14, 1964; 1954 ACS 92, p. 20, Eff. July 13, 1977.

R 299.1906 Oil loss from wells, pipelines, and other facilities.

Rule 906. Every precaution shall be taken to prevent the escape of oil. Oil which has escaped from a well, oil pipeline, oil tank, loading installation, pumping station, truck transport, or other transportation facility shall be disposed of in a manner approved by the department of natural resources, bureau of environmental protection, oil and hazardous materials control section.

History: 1954 ACS 37, p. 30, Eff. Feb. 14, 1964; 1954 ACS 69, p. 41, Eff. June 21, 1971; 1954 ACS 92, p. 20, Eff. July 13, 1977.

R 299.1907 Notice of oil or gas loss; notice of serious accident.

Rule 907. A person, owner, or operator of a drilling or producing well, refinery, or transportation agency, including truck transports, shall notify the department of natural resources, bureau of environmental protection, oil and hazardous materials control section, of oil or refined product losses which occur at an oil well, oil tank, pump station, refinery, or other facility owned, operated, or controlled by him. Notice shall also be given of a tank struck by lightning; other oil or refined product losses which destroy oil or gas or which create, or may create, a fire or pollution hazard; breaks or leaks in a tank, pipeline, or transportation facility from which oil or gas escaped or is escaping; and of a serious accident which has created, or may create, a fire or pollution hazard or which may cause damage to, or destruction of, life or property. Notification shall

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be made promptly by telephone or telegraph, giving briefly the particulars, and by written report, prescribed by the bureau, giving a more detailed account of events and conditions.

History: 1954 ACS 37, p. 30, Eff. Feb. 14, 1964; 1954 ACS 69, p. 41, Eff. June 21, 1971; 1954 ACS 92, p. 20, Eff. July 13, 197-.

R 299.1907a Smoking and open flames.

Rule 907a. Smoking and open flames shall be prohibited in and around a structure or area containing a gas facility or where possible leakage or presence of gas constitutes a hazard of fire or explosion. Suitable signs shall be posted to serve as warnings in the area. Flashlights and hand lanterns, when used, shall meet fire marshal specifications.

History: 1954 ACS 69, p. 42, Eff. June 21, 1971.

R 299.1908 Burning of gas.

Rule 908. All gas produced in the operation of oil wells which is not utilized shall be burned, processed, or disposed of in a manner approved by the supervisor. Such gas shall not be burned closer than 100 feet from any well or storage tank.

History: 1954 ACS 37, p. 30, Eff. Feb. 14, 1964.

R 299.1909 Handling of crude oil and refined products.

Rule 909. (1) The handling and transportation of crude oil or refined products shall be carried on in such manner as will not create unnecessary fire hazards or allow or tend to allow tank bottoms, emulsions, waste oil, brine, or refined products or wastes to enter streams, rivers, lakes, or fresh waters.

(2) An abandoned petroleum or products line under a riverbed, lake, stream or surface water shall be purged of oil and emulsions within a reasonable time after abandonment. When a pipeline is sold, traded, abandoned or temporarily abandoned, the pipeline company shall promptly notify the supervisor. The supervisor may require that the line be abandoned under terms which he believes are indicated under existing conditions.

(3) The supervisor shall receive notice, 60 days before construction, of the proposed route of a new transmission pipeline which is not subject to Act No. 16 of the Public Acts of 1929, being §§483.1 to 483.11 of the Michigan Compiled Laws, or Act No. 9 of the Public Acts of 1929, being §§483.101 to 483.120 of the Michigan Compiled Laws.

(4) The supervisor may hold hearings relative to the construction of a pipeline as described in subrule (3), or replacement of a pipeline which in his judgment may be in an unsafe operating condition.

History: 1954 ACS 37, p. 30, Eff. Feb. 14, 1964; 1954 ACS 69, p. 42, Eff. June 21, 1971.

R 299.1910 Wells and pipeline installations to be identified.

Rule 910. (1) Every well shall be identified by a sign, posted on a derrick, or pump jack, if possible, and otherwise on a substantial post not more than 20 feet from such well, and signs shall be of durable construction and the lettering thereon shall be kept in good condition and shall be large enough to be legible under normal conditions at a distance of 50 feet. The wells on each lease or property shall be numbered consecutively, beginning with no. 1, unless some other system of numbering was adopted by the owner prior to the adoption of this rule. Each sign shall show the number of the well; the name of the lease (which shall be different for each lease); the name of the lessee, owner or operator, and the location by quarter-quarter, section, township and range.

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(2) Separate identification plates shall be attached to each well head connection in the case of multiple completions.

(3) All loading installations and oil field booster pumps shall be identified by signs. Such signs shall be located not more than 20 feet from the loading installation or oil field booster pump and shall be kept in good condition and shall be large enough to be legible under normal conditions at a distance of 50 feet.

History: 1954 ACS 37, p. 30, Eff. Feb. 14, 1964.

PUBLIC HEARING

R 299.2001 Public hearing; purpose; scheduling; request or petition generally.

Rule 1001. The act provides for public hearings to receive evidence pertaining to the need or desirability of an action or an order by the supervisor of wells. A public hearing may be scheduled at the initiative of the supervisor or by the supervisor upon the receipt of a written request or petition from an owner, operator, lessee, lessor, or other interested party in the matter proposed for hearing. Each member of the advisory board shall be notified of any request or petition for hearing.

History: 1954 ACS 37, p. 31, Eff. Feb. 14, 1964; 1954 ACS 92, p. 20, Eff. July 13, 1977.

R 299.2002 Information to be included in written request or petition.

Rule 1002. (1) A written request or petition for a public hearing, as specified in R 299.2001, shall contain the following information:

(a) Name and address of petitioner.

(b) Purpose for which hearing is requested.

(c) Descriptions, locations, sections, townships, and counties relating to the matter to be heard.

(d) Names and addresses of owners, operators, lessees, lessors, or other interested parties which may be affected by the adoption or denial of the action proposed for hearing.

(e) Maps, plats, and exhibits which may be useful in considering the matter to be heard.

(f) Name of the newspaper circulated in the county or counties where the oil or gas operation is located.

(2) The following information is required when a spacing order is to be considered:

(a) Size, shape, and orientation of the drilling unit.

(b) Well spacing pattern to be proposed.

(c) Area to be included in the spacing order.

(3) If the petitioner wishes to drill, deepen, rework, or conduct any other operation regulated by these rules, he shall file with the petition an appropriate application.

(4) Additional information is required in a petition for a hearing on an order for compulsory pooling, as specified in R 299.1205.

History: 1954 ACS 37, p. 31, Eff. Feb. 14, 1964; 1954 ACS 92, p. 20, Eff. July 13, 1977.

R 299.2003 Types of hearings.

Rule 1003. The supervisor may schedule hearings of the following types:

(a) A hearing before the supervisor of wells and the advisory board. The purpose of this type of hearing is to consider the adoption of an order or rule having field-wide or state-wide application, or to consider other matters in which the board elects to participate.

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(b) Hearing before the supervisor of wells only. The purpose of this type of hearing is to consider matters of local concern in the administration of these rules or the orders of the supervisor.

History: 1954 ACS 37, p. 31, Eff. Feb. 14, 1964; 1954 ACS 92, p. 21, Eff. July 13, 1977.

R 299.2004 Hearings subject to administrative procedures act of 1969.

Rule 1004. A hearing scheduled by the supervisor is subject to, and shall be conducted in accordance with, the administrative procedures act of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, unless a different procedure is authorized by the act or these rules.

History: 1954 ACS 37, p. 32, Eff. Feb. 14, 1964; 1954 ACS 92, p. 21, Eff. July 13, 1977.

R 299.2005 Determination as to type of hearing.

Rule 1005. Upon receipt of a request or petition, the supervisor, after finding the request to be reasonable and appropriate, shall determine whether the request or petition shall be heard before the supervisor of wells and the advisory board, or before the supervisor of wells only.

History: 1954 ACS 37, p. 33, Eff. Feb. 14, 1964; 1954 ACS 92, p. 21, Eff. July 13, 1977.

R 299.2006 Hearing before the supervisor of wells and the advisory board.

Rule 1006. (1) When the supervisor of wells determines that a matter shall be heard before the supervisor of wells and the advisory board, the supervisor shall schedule a date, time, and place for a hearing, and shall acknowledge the receipt of the request or petition. The supervisor of wells shall furnish a notice of hearing to the petitioner, together with instructions. Upon receipt, the petitioner shall furnish copies of the notice of hearing by certified mail, with return receipts requested, to the last known address of the following:

(a) The last owner of record of the oil and gas mineral interests underlying the lands or areas directly affected by the proposed action, and of the surface owner.

(b) The last owner of record of the oil and gas mineral interests underlying the lands or areas immediately adjacent to, and contiguous to, the lands or areas directly affected by the proposed action, and of the surface owner.

(c) The last owner of record of oil and gas leases from 1 or more owners described in subdivisions (a) or (b).

(d) The receipts returned following service by certified mail shall be filed with the supervisor of wells on or before the date of the hearing.

(2) A notice shall also be published by the supervisor of wells in an oil and gas industry publication circulated in Michigan and in a newspaper having general circulation in the county or counties involved with the matter to be heard. Publication of these notices shall be not less than 10 days prior to the date of the hearing. Affidavits or proof of publication shall be filed with the supervisor of wells on or before the date of the hearing.

(3) When the supervisor of wells has determined that a matter shall be heard before the supervisor of wells and the advisory board, the supervisor of wells shall determine on or before the date of the hearing that the hearing shall be held before either of the following:

(a) The supervisor of wells and the advisory board, with either the supervisor of wells or a department of natural resources hearing officer presiding.

(b) A department of natural resources hearing officer only, which officer shall preside at the hearing and may make a proposal for a decision pursuant to section 81 of the administrative procedures act of 1969, as amended. The supervisor of

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wells or any member of the advisory board, or both, may be present at, and participate in, this type of hearing and may review any of the evidence.

(4) A hearing that is being held before the supervisor of wells and the advisory board, with a department of natural resources hearing officer presiding, may be changed at any time during the hearing by the supervisor of wells to a hearing before the department of natural resources hearing officer only. The hearing officer shall continue to preside at the hearing and may make a proposal for decision pursuant to section 81 of the administrative procedures act of 1969, as amended.

(5) Any person owning an interest in, or who may be affected by the adoption of an order pertaining to, the matter to be heard shall be given an opportunity to present evidence. An attorney representing a person owning an interest in, or who may be affected by the adoption of an order pertaining to, the matter to be heard shall file a written appearance with the supervisor of wells or the presiding hearing officer prior to the hearing.

(6) At a meeting with the supervisor, the advisory board, with the chairman of the board presiding, shall make its recommendations to the supervisor after giving due consideration to either or both of the following:

(a) The proposal for decision, the exceptions to the proposal for decision, written arguments, and, if presented, oral arguments.

(b) The evidence.

(7) The supervisor shall take appropriate action after giving due consideration to the recommendation of the advisory board and either or both of the following:

(a) The proposal for decision, the exceptions to the proposal for decision, written arguments, and, if presented, oral arguments.

(b) The evidence.

History: 1954 ACS 37, p. 33, Eff. Feb. 14, 1964; 1954 ACS 92, p. 21, Eff. July 13, 1977.

R 299.2007 Hearing before supervisor of wells only.

Rule 1007. (1) When the supervisor of wells determines that a matter shall be before the supervisor of wells only, the supervisor shall schedule a date, time, and place for a hearing, and shall acknowledge the receipt of the request or petition. The supervisor of wells shall furnish a notice of hearing to the petitioner, together with instructions for the publication of notice. Upon receipt, the petitioner shall furnish copies of the notice of hearing by certified mail, with return receipts requested, to the last known address of the following:

(a) The last owner of record of the oil and gas mineral interests underlying the lands or areas directly affected by the proposed action, and of the surface owner.

(b) The last owner of record of the oil and gas mineral interests underlying the lands or areas immediately adjacent to, and contiguous to, the lands or areas directly affected by the proposed action, and of the surface owner.

(c) The last owner of record of oil and gas leases from 1 or more owners described in subdivisions (a) or (b) of this subrule.

(2) A notice of hearing shall also be published by the petitioner in an oil and gas industry publication circulated in Michigan and in a newspaper having general circulation in the county or counties involved with the matter to be heard. Publication of these notices shall be not less than 10 days prior to the date of the hearing. Affidavits or proof of publication, and the receipts returned following service by certified mail, are to be filed with the supervisor of wells on or before the date of the hearing.

(3) When the supervisor of wells determines that a matter shall be before the supervisor of wells only, the supervisor of wells shall determine on or before the date of the hearing that the hearing shall be held before either of the following:

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(a) The supervisor of wells, with either the supervisor of wells or a department of natural resources hearing officer presiding.

(b) A department of natural resources hearing officer only, which officer shall preside at the hearing and may make a proposal for decision pursuant to section 81 of the administrative procedures act of 1969, as amended. The supervisor of wells may be present at and may participate in this type of hearing, and may review any of the evidence.

(4) A hearing that is being held before the supervisor of wells, with a department of natural resources hearing officer presiding, may be changed, by the supervisor of wells, at any time during the hearing, to a hearing before the department of natural resources hearing officer only. The hearing officer shall continue to preside at the hearing and may make a proposal for a decision pursuant to section 81 of the administrative procedures act of 1969, as amended.

(5) Any person owning an interest in, or who may be affected by the adoption of an order pertaining to, the matter to be heard, shall be given an opportunity to present evidence. An attorney representing a person owning an interest in, or who may be affected by the adoption of an order pertaining to, the matter to be heard, shall file a written appearance with the supervisor of wells or the presiding officer prior to the hearing.

(6) The supervisor shall take appropriate action after giving due consideration to either or both of the following:

(a) The proposal for decision, the exceptions to the proposal for decision, written arguments, and, if presented, oral arguments.

(b) The evidence.

History: 1954 ACS 92, p. 22, Eff. July 13, 1977.

R 299.2008 Subpoenas; depositions.

Rule 1008. (1) At any time in a hearing, the supervisor of wells or the presiding officer may order a party or witness to attend and testify orally at the hearing. At the request of the staff or a party, subpoenas for attendance at a hearing shall be issued by the supervisor of wells or the presiding hearing officer upon application in writing to the supervisor of wells or to the presiding hearing officer. A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein, which shall be specified in detail.

(2) A subpoena shall state the title of the proceeding and shall command each person to whom it is directed to attend and comply with the subpoena at a time and place therein specified. The supervisor of wells or presiding hearing officer, upon motion made at or before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify a subpoena or subpoena duces tecum if it is unreasonable or oppressive, or if it requires the production of evidence which is not relevant or material to a matter in issue.

(b) Condition the subpoena, in the case of a subpoena duces tecum, upon the advancement, by the person in whose behalf the subpoena is issued, of the reasonable cost of producing the book, papers, documents, or tangible things, unless otherwise provided by law.

(3) The supervisor of wells, at his discretion, either upon his own motion or for good cause shown by a party to a proceeding, may issue an order to take a deposition, interrogatory, or other discovery. If a deposition, interrogatory, or other discovery is permitted, it shall be taken according to the rules for taking depositions in circuit court civil cases under Michigan court rules.

History: 1954 ACS 92, p. 23, Eff. July 13, 1977.

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R 299.2009 Continuance of public hearings.

Rule 1009. Public hearings, as provided in these rules, may be continued within the discretion of the presiding officer until all required testimony is submitted and all pertinent data and information are received. No further notice of such continuance shall be necessary other than the announcement at the time of the first hearing.

History: 1954 ACS 92, p. 23, Eff. July 13, 1977.

R 299.2010 Failure to give notice of hearing.

Rule 1010. Failure to give notice of a hearing to any person normally entitled to such notice as of the time of the hearing shall not constitute a bar to the conduct of the hearing.

History: 1954 ACS 92, p. 23, Eff. July 13, 1977.

ENFORCEMENT

R 299.2101 Authority of supervisor.

Rule 1101. The supervisor, by virtue of section 6 of Act No. 61 of the Public Acts of 1939, as amended:

(a) May enforce all rules and regulations, issue orders and instructions necessary to enforce such rules and regulations, and do whatever may be necessary with respect to the subject matter stated in the rules and regulations to carry out the purposes of the rules and regulations and of the act itself, whether or not such orders or instructions are indicated, specified or enumerated in the act or the rules and regulations.

(b) May shut down a producible well on a lease where a violation exists and the shut down time shall continue until correction is made and a violation no longer exists. The supervisor may also prohibit the purchaser from taking oil from the lease during the required shut down time.

History: 1954 ACS 37, p. 33, Eff. Feb. 14, 1964; 1954 ACS 69, p. 42, Eff. June 21, 1971.

R 299.2102 Rescinded.

History: 1954 ACS 37, p. 33, Eff. Feb. 14, 1964; rescinded 1954 ACS 92, p. 23, Eff. July 13, 1977.

GEOLOGICAL SURVEY DIVISION

MINERAL WELLS

(By authority conferred on the supervisor of mineral wells and the commission of natural resources by section 14 of Act No. 315 of the Public Acts of 1969, being §319.224 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 299.2201 Applicability and effect on other laws.

Rule 1. (1) These rules implement the act and apply to mineral well operations, except for special orders and determinations which may be adopted from time to time by the supervisor to apply to specifically designated areas or conditions in the state.

(2) A rule, special order or determination which may be adopted pursuant to the act shall not supersede or contravene any of the provisions of Act No. 61 of the Public Acts of 1939, as amended, being §§319.1 to 319.27 of the Michigan Compiled Laws (oil and gas act); Act No. 326 of the Public Acts of 1937, as

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amended, being §§319.51 to 319.82 of the Michigan Compiled Laws (natural gas act); Act No. 294 of the Public Acts of 1965, being §§325.221 to 325.240 of the Michigan Compiled Laws (groundwater quality control act); Act No. 98 of the Public Acts of 1913, as amended, being §§325.201 to 325.214 of the Michigan Compiled Laws (waterworks systems and sewage disposal systems act); or Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.12a of the Michigan Compiled Laws (water resources commission act).

History: 1954 ACS 72, p. 15, Eff. July 14, 1972.

R 299.2205 Definitions; A to G.

Rule 5. (1) Terms used in these rules which are defined in the act have the same meaning as given in the act.

(2) "Act" means Act No. 315 of the Public Acts of 1969, being §§319.211 to 319.236 of the Michigan Compiled Laws.

(3) "Cement" means an approved type of sealing material.

(4) "Foundation boring" means a test well drilled for the purpose of determining the characteristics of the overburden or rock on which a foundation or structure will rest.

(5) "Geophysical testing hole" means a hole drilled for the purpose of providing a means for determining the physical or chemical characteristics of the earth.

History: 1954 ACS 72, p. 15, Eff. July 14, 1972.

R 299.2207 Definitions; L to S.

Rule 7. (1) "Lost mineral well" means a well which cannot be completed because of mechanical difficulties, accidents of construction or geological conditions.

(2) "Mineral well" includes brine, storage, disposal, and test wells.

(3) "Precambrian" means rocks older than the Jacobsville Sandstone.

(4) "Repair" or "maintenance" means changes to the retrievable components of a well, such as tubing, pumps, movable liners, or minor reconditioning operations, such as backflushing or swabbing.

(5) "Reservoir" means a natural or artificially developed underground container of liquids or gas.

(6) "Rework" means to make changes or alterations in the permanent subsurface well equipment or in the original relationship between the permanent, nonretrievable equipment and the adjacent geologic formations, including, but not limited to, squeezing with cement, repairing of casing leaks, cementing of casings or liners, casing or liner perforations, well stimulation, deepening, or plugging back operations.

(7) "Static water level" means the level at which water stands in a well when no water is being taken from the aquifer and is expressed as the distance from the ground surface.

History: 1954 ACS 72, p. 15, Eff. July 14, 1972.

PART 2. PERMITS

R 299.2211 Permits to drill, deepen, rework, or convert mineral wells.

Rule 11. (1) An application for permit shall be filed and a permit received before commencing to drill a mineral well, to convert a mineral well to new use, to convert a well drilled under another act to a mineral well or to deepen, rework

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or convert to new use a well drilled before the effective date of the act except as provided in R 299.2227.

(2) The permit shall be posted in a conspicuous place at the well location and remain posted until the drilling of the well has been completed.

(3) The blanket permit to drill mineral wells, or a copy thereof, shall be posted in a conspicuous place at the well location or be in the possession of the driller.

History: 1954 ACS 72, p. 16, Eff. July 14, 1972.

R 299.2212 Permits to drill, deepen, rework, or convert brine, storage, and disposal wells; conditions for issuance.

Rule 12. Except as provided in R 299.2229, and unless a public hearing on issuance of a permit is required under R 299.2215, a permit to drill a brine, storage, or disposal well, to convert a mineral well or to convert a well drilled before the effective date of the act or under another act to a brine, storage, or disposal well or to deepen or rework a brine, storage, or disposal well drilled before the effective date of the act shall be issued within 10 days after receipt of application if:

(a) The exact location is established by a surveyor, engineer, or competent company personnel, and a stake or marker is set at the well location.

(b) A map or plat of the well area or company property is prepared indicating distances and directions from the well site to specific features, including lakes, streams, swamps, drainageways, wells including depth or deepest zone or formation, buildings, streets, highways, pipelines, power or other utility lines, railroads, and other features which lie within 300 feet but shall not include proprietary information relating to manufacturing processes or unreasonable detail in manufacturing plant complexes.

(c) An accurately completed application is filed on prescribed forms with the map or plat and permit fee. The application shall be typewritten and contain a detailed account of the proposed well construction, drilling program and general operating plans and procedures. Supplemental information required by application or by the supervisor shall be submitted on separate sheets with the application. Evidence of authority of a representative of the applicant shall be furnished on request of the supervisor. Inaccurate or incomplete maps, plats or application shall be corrected or completed and resubmitted.

(d) An organization report is filed on a prescribed form if requested by the supervisor.

(e) A surety or security bond is filed as required by these rules.

History: 1954 ACS 72, p. 16, Eff. July 14, 1972.

R 299.2213 Special requirements for permits.

Rule 13. (1) Special conditions or circumstances related to purpose, construction, or location of a proposed mineral well may require investigation, review, and determination by the supervisor or proofs of feasibility by the applicant, or both, before a permit may be issued.

(2) A person who intends to drill a storage or disposal well may be required to furnish advance notice of intent to drill, either published, or by certified mail, or both, to property owners within a 2-mile radius of the proposed well or within such adjacent area as required by the supervisor.

(3) A person applying for a permit to drill a storage or disposal well shall file with the application a statement setting forth the bacterial, physical, chemical and other known characteristics of the wastes or materials to be stored or disposed.

History: 1954 ACS 72, p. 16, Eff. July 14, 1972.

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R 299.2215 Public hearings on storage and disposal wells.

Rule 15. A public hearing to determine the need or advisability of issuance of a permit for drilling a storage or disposal well or converting a well to these uses may be held by the supervisor if he believes that the public safety or other interests are involved or receives from an owner, operator, lessee, lessor, the advisory board, or other person directly concerned with the matter proposed for hearing, a written request or petition which alleges that the public safety or other interest is involved.

History: 1954 ACS 72, p. 16, Eff. July 14, 1972.

R 299.2216 Confirmation of use of storage and disposal wells.

Rule 16. (1) Confirmation of the use of a storage or disposal well, the drilling of which has been authorized by a permit, is conditioned on approval of the well by an order of the water resources commission after completion and testing. If it is determined by inspection, and appropriate evidence is filed after testing, that a well can be used for storage or disposal in a manner that will not cause surface or underground waste, the supervisor shall approve and thereafter regulate the use and operation of the well in accordance with these rules and the order of the water resources commission.

(2) Requirements for testing are prescribed in R 299.2261 and R 299.2262. If a well is determined after testing to be unsuitable for storage or disposal use, it shall be abandoned and plugged as provided in part 7 or converted for other use as provided in R 299.2246.

History: 1954 ACS 72, p. 17, Eff. July 14, 1972.

R 299.2221 Individual test well permits.

Rule 21. Except as provided in R 299.2229, a permit to drill an individual test well shall be issued within 10 days after receipt of an application if:

(a) The exact location is established and a stake or marker is set at the well location.

(b) A plat or map is made of the well area or company property indicating the relationship of the well to lakes, streams, swamps, drainageways, wells, buildings, streets, highways, pipelines, power and other utility lines, railroads, and other features within 300 feet.

(c) An accurately completed application is filed on prescribed forms with the map or plat and fee. The application shall be typewritten and contain a detailed account of the proposed well construction, drilling procedure and plugging method.

(d) An organization report is filed on a prescribed form if requested by the supervisor.

(e) A surety or security bond is filed as required by these rules.

History: 1954 ACS 72, p. 17, Eff. July 14, 1972.

R 299.2222 Blanket test well permits.

Rule 22. A blanket permit may be issued to drill not more than 200 test wells, other than foundation borings or geophysical testing holes, within a limited or local area not exceeding 9 square miles if a geological test program is intended. A blanket permit is valid for not more than 1 year and expires on December 31. Test wells may be drilled in accordance with this rule if:

(a) An accurately completed application is filed on prescribed forms. The application shall be typewritten and contain a detailed account of the proposed well construction, drilling procedure, and plugging method.

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(b) Information is furnished in an accompanying letter and map indicating the purpose of the drilling project and the approximate number, location, and depth of the wells.

(c) A permit fee is filed with the application.

(d) An organization report is filed on a prescribed form if requested by the supervisor.

(e) A surety or security bond is filed as provided by these rules.

History: 1954 ACS 72, p. 17, Eff. July 14, 1972.

R 299.2223 Geophysical testing holes.

Rule 23. (1) A blanket permit may be issued to drill geophysical testing holes within a specified area or for a specified investigative program. A blanket permit will not be issued for an area larger than 1 county and may be restricted to a smaller area by the supervisor for geologic reasons. A person may obtain separate blanket permits for more than 1 county or may obtain more than 1 blanket permit for the same county. A blanket permit is valid for not more than 1 year and expires on January 31. Not more than 200 holes may be drilled under a blanket permit except as authorized by the supervisor.

(2) Geophysical testing holes may be drilled in accordance with this rule if:

(a) An accurately completed, typewritten application is filed on prescribed forms. The application shall contain a detailed account of the proposed well construction methods, drilling procedures, and plugging methods. The plan shall propose alternative methods of plugging to be used to cope with various soil and water conditions within the area covered by the permit and shall specify criteria which will be applied to determine the applicable method.

(b) Information is furnished in an accompanying letter and map indicating the purpose of the drilling project and estimated number, general location, drilling pattern, and approximate depth of holes.

(c) A permit fee is filed with the application.

(d) An organization report is filed on a prescribed form if requested by the supervisor.

(e) A surety or security bond is filed as provided in these rules.

(3) Within 60 days after completion of a geophysical test hole project or termination of a permit, whichever is first, a location plan and logs of wells shall be submitted in accordance with part 6.

(4) Issuance of a blanket permit for a specified area or period of time shall not be construed as granting exclusive rights to operate therein nor does the permit preclude the necessity of permission, permits, easements, or other granting of privileges by other persons or agencies.

History: 1954 ACS 72, p. 17, Eff. July 14, 1972.

R 299.2225 Foundation borings.

Rule 25. (1) A blanket permit may be issued to drill foundation test borings within a specified area or for a specified investigative program. A blanket permit will not be issued for an area larger than 1 county and may be restricted to a smaller area by the supervisor for geologic reasons. A person may obtain separate blanket permits for more than 1 county or may obtain more than 1 blanket permit for the same county. A blanket permit is valid for not more than 1 year and expires on February 28. Not more than 200 holes may be drilled under a blanket permit except as authorized by the supervisor.

(2) A blanket permit shall be issued to qualified persons for drilling of foundation test borings if:

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(a) An accurately completed application is filed on prescribed forms.

(b) Acceptable plans are proposed for the drilling and plugging. Plugging shall conform to procedures adopted by the supervisor based on recommended practices of the American society of civil engineers, Michigan section, and the department of state highways. The plan shall propose alternate plugging methods for various soil and water conditions within the area covered by the permit and the criteria which will be applied to determine the applicable method.

(c) A permit fee is filed with the application.

(d) An organization report is filed on a prescribed form if requested by the supervisor.

(e) A surety or security bond is filed as provided in these rules.

(3) Within 60 days after completion of a test boring, test boring program, or termination of the permit, whichever is first, a location plan and log of each well shall be submitted as provided in part 6. The log shall indicate the actual drilling and plugging procedures used.

(4) Issuance of a blanket permit for a specified area or period of time shall not be construed as granting exclusive rights to operate therein, nor does the permit preclude the necessity of permission, permits, easements or other granting of privileges by other persons or agencies.

History: 1954 ACS 72, p. 18, Eff. July 14, 1972.

R 299.2227 Test well permits; when not required.

Rule 27. (1) A permit to drill test wells is not required in areas of the state where rocks of Precambrian age lie directly under unconsolidated surface deposits; or in areas designated by the supervisor as being areas where there is no known or potential danger of surface or underground waste from test well drilling; except that the drilling shall be subject to R 299.2228 and other applicable rules. However, within 2 years after completion of the drilling of a well, the owner shall advise the supervisor of the location of the well and file with him the log required by part 6.

(2) A petition with supporting evidence may be filed with the supervisor requesting a hearing to determine the need or advisability of designating an additional area or areas where permits to drill test wells are not required except that the drilling shall be subject to R 299.2228 or other applicable rules. A petition shall be filed and hearings shall be scheduled in accordance with R 299.2292 to R 299.2294.

(3) A permit is not required for a hole drilled in the operation of a quarry, open pit, or underground mine if the hole location is less than 500 feet from the quarry, open pit, or mine.

(4) A permit is not required for a test hole 25 feet or less in depth which does not encounter bedrock. However, plugging of such a well shall be in accordance with R 299.2223, R 299.2225, R 299.2283, and R 299.2285.

History: 1954 ACS 72, p. 18, Eff. July 14, 1972.

R 299.2228 Wells located in waters of state.

Rule 28. A mineral well to be located in or over the bed or waters of a stream, inland lake, a Great Lake, a natural or artificial impoundment, or other body of water shall be subject to approval by the commission before issuance of a permit.

History: 1954 ACS 72, p. 19, Eff. July 14, 1972.

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R 299.2229 Denial of permits.

Rule 29. (1) The supervisor is prohibited by the act from issuing a permit to a person who is not in compliance with the act or the rules or the orders of the supervisor.

(2) The supervisor shall deny issuance of a permit for a mineral well if he has reason to believe that the locating, drilling, constructing, reworking, or operating of the well cannot be accomplished in a manner designed to prevent surface or underground waste.

History: 1954 ACS 72, p. 19, Eff. July 14, 1972.

PART 3. BONDS

R 299.2231 Surety and security bonds.

Rule 31. (1) A person who obtains a permit to drill, converts to, or acquires a mineral well shall file a surety or security bond, the amount of which shall be commensurate with the number of wells and the type of project.

(2) The amount of a surety bond shall be as follows:

(a) Single test well—$2,000.00.

(b) Blanket bond for 2 or more test wells—$5,000.00.

(c) Single brine well—$5,000.00.

(d) Blanket bond for 2 or more brine wells—$15,000.00.

(e) Single storage or disposal well—$15,000.00.

(f) Blanket bond for 2 or more storage or disposal wells or a combination of 2 or more test, brine, storage, or disposal wells—$25,000.00.

(3) A security bond in the amount equal to the required surety may be deposited or required in lieu of a surety bond. A security bond shall consist of cash or negotiable securities and shall be deposited with the department of treasury. The securities shall be registered in the name of the treasurer of the state of Michigan. The state treasurer shall charge a fee sufficient to reimburse him for not less than actual and necessary expenses incurred in connection with the deposit.

History: 1954 ACS 72, p. 19, Eff. July 14, 1972.

R 299.2235 Liability on bonds.

Rule 35. (1) Liability on a surety or security bond is conditioned on compliance with the act and the rules and the orders of the supervisor and continues until either of the following occurs:

(a) One year after the well or wells have been abandoned and satisfactorily plugged as provided in part 7 and approved by the supervisor, and all logs, plugging records, and other pertinent data required by the act or rules and orders of the supervisor are filed and approved.

(b) Ownership of the well or wells is assumed by another person and the permits are transferred as provided in R 299.2242.

(2) The supervisor shall advise the surety and the principal when liability on a bond is terminated. A security bond deposited with the state treasurer shall be released only upon written direction of the supervisor.

(3) The supervisor shall look to the surety or the security bond for correction of unsatisfactory conditions not otherwise corrected, and all expenses shall be paid through the surety or security bond in case of default by the principal.

(4) The surety under a blanket bond may refuse to accept additional wells or permits by giving 10 days notice by registered mail to the supervisor and the owner or operator. The bond shall continue in full force and effect relative to the well or wells for which permits were granted or transferred before the effective

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date of the notice. This cancellation procedure does not apply to single surety bonds.

History: 1954 ACS 72, p. 19, Eff. July 14, 1972.

PART 4. DISPOSITION OF PERMITS AND WELLS

R 299.2241 Changes of location before drilling.

Rule 41. A permit to drill shall be returned to the supervisor for cancellation, together with a new application for permit to drill at a new location if the location for which a permit to drill has been issued is changed before commencement of drilling. A new fee is not required, but drilling may be commenced only after the new application is processed and the new permit issued.

History: 1954 ACS 72, p. 20, Eff. July 14, 1972.

R 299.2242 Changes of ownership of wells.

Rule 42. (1) If a person who obtains a permit to drill disposes of his interest in a mineral well to a new owner while the well is being drilled, or after the well is completed, a notice of change of ownership and a request for transfer of permit shall be submitted to the supervisor on prescribed forms.

(2) The request for transfer of ownership may be approved if it is signed by the owner of record and the acquiring owner and if the required bond is filed by the acquiring owner.

(3) A permit may be transferred only to persons who are in compliance with the act and the rules and orders of the supervisor.

History: 1954 ACS 72, p. 20, Eff. July 14, 1972.

R 299.2244 Termination of permits.

Rule 44. A permit to drill, rework, or deepen a well terminates and is void 6 months after the date of issuance if the well for which the permit was issued has not been commenced, drilled, reworked, or deepened in accordance with the permit, except as provided by R 299.2222 to R 299.2225. The supervisor may grant an extension of time for commencement after receiving a written request and finding that the request is reasonable.

History: 1954 ACS 72, p. 20, Eff. July 14, 1972.

R 299.2246 Conversion of wells for new uses.

Rule 46. (1) An existing well, a mineral well or a well drilled under another act may be converted to a new use if a permit is obtained in accordance with R 299.2212.

(2) A mineral well may be converted to a use other than provided by the act if the conversion is acceptable to the receiving authority and the well construction is suitably altered in accord with specifications to be stated by the supervisor and the receiving authority.

History: 1954 ACS 72, p. 20, Eff. July 14, 1972.

R 299.2247 Change of status of wells.

Rule 47. (1) A mineral well may be deepened below the depth at which originally completed, may be reworked, may be shut-in for a period of time not to exceed 1 year except as provided in R 299.2281 or its status may otherwise be changed by any operation except for conversion to new use if:

(a) An application for permission to change the status of the well has been filed with the supervisor on prescribed forms. The application shall contain a detailed

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account of the work to be accomplished. Supplemental information required by the application or the supervisor shall be submitted on separate sheets with the application.

(b) A surety or security bond is filed as provided by these rules.

(c) The application has been approved by the supervisor and a permit to change the status of the well has been issued.

(2) Within 30 days after completion of the change of status operation, a complete record of the work performed shall be filed with the supervisor on prescribed forms in accordance with R 299.2271 and R 299.2272.

(3) Normal repair or maintenance of mineral wells shall not constitute a change in status.

History: 1954 ACS 72, p. 20, Eff. July 14, 1972.

R 299.2248 Lost mineral wells.

Rule 48. A mineral well which cannot be completed shall be plugged promptly in accordance with part 7, unless converted to other use as provided in R 299.2246.

History: 1954 ACS 72, p. 20, Eff. July 14, 1972.

R 299.2249 Disposal of unconfirmed wells.

Rule 49. A well which is not confirmed or approved for disposal use under R 299.2216 shall be abandoned and plugged in accordance with part 7 or converted for other use as provided in R 299.2246.

History: 1954 ACS 72, p. 20, Eff. July 14, 1972.

PART 5. CONSTRUCTION AND OPERATION OF WELLS

R 299.2251 Preparation of well locations.

Rule 51. (1) A pit or pits of a size approved by the supervisor shall be provided in close proximity to the well for the purpose of collecting and containing drill cuttings and confining drilling muds and fluids.

(2) Dikes may be required to prevent the escape of fluids from the well site, and other safeguards may be required for the protection of cultural or other adjacent features.

(3) Steel tanks, cribs, or other approved containers may be required in an area where pits are not feasible or adequate, or if the cuttings and fluids are to be removed from the premises.

(4) Drilling shall not be commenced until the person has complied with the methods and means specified by the supervisor to prevent pollution.

(5) Provision for protection of life and property may be required in a congested area. Fencing, gates, warning signs, cooperation of police and fire departments, and other protective safeguards may be required.

History: 1954 ACS 72, p. 21, Eff. July 14, 1972.

R 299.2252 Prevention of waste and pollution.

Rule 52. (1) A person who drills or operates a mineral well shall use appropriate and approved methods to prevent waste and pollution during drilling, testing, production, storage, and disposal operations. The supervisor may issue orders and instructions and adopt, recommend, or recognize guidelines relating to drilling, spacing, or operating to cope with known or expected surface or underground conditions.

(2) A well site shall be maintained in an orderly manner and kept free and clear of debris and unnecessary or abandoned equipment.

History: 1954 ACS 72, p. 21, Eff. July 14, 1972.

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R 299.2253 Casing and sealing brine, storage, and disposal wells.

Rule 53. A specific casing and sealing program shall be submitted with each application for a permit to drill a brine, storage, or disposal well, which shall be appropriate to the drilling methods, expected geologic conditions, and the intended ultimate use of the well, including, but not limited to, the following:

(a) Drive pipe shall be landed, or surface pipe set and cemented to the surface, at sufficient depth to protect fresh water aquifers.

(b) Intermediate casing or casings, if required, shall be run and cemented as approved by the supervisor. Centralizers may be required.

(c) The production or long string of casing shall be run and cemented as approved. Centralizers may be required.

(d) Tubing may be required for use in injection and withdrawal operations. The operator shall furnish to the supervisor evidence that the casing will not be exposed to undue corrosion. Installation of a packer on the tubing may be required.

(e) Hole diameters, casing weights and diameters, and cementing procedures shall be subject to approval by the supervisor.

(f) The drilling fluid used with rotary drilling equipment shall be capable of preventing blowouts and flows and sealing off each oil, gas, brine, or fresh water stratum above the producing horizon or objective formation.

(g) A well head shall be equipped with blowout preventer, master gate valve or control head and securely anchored flow lines, appropriate to the type of drilling method, and shall be kept in good working condition. Records of pressure and mechanical tests of well head equipment shall be entered in the log book, signed by the driller, and kept available for inspection by the supervisor or his representative.

History: 1954 ACS 72, p. 21, Eff. July 14, 1972.

R 299.2254 Casing and sealing test wells.

Rule 54. A combination of casing and sealing may be required on a test well to provide protection to the waters of the state and to prevent migration of fluids between layers of earth materials.

History: 1954 ACS 72, p. 21, Eff. July 14, 1972.

R 299.2255 Cavities and reservoirs for storage use.

Rule 55. (1) A cavity or reservoir may be created by solution, by fracturing or by any chemical, physical, or mechanical method, or any combination thereof.

(2) Disposal of the salt water or other mineralized water resulting from development of a cavity or reservoir shall be subject to Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.13 of the Michigan Compiled Laws.

History: 1954 ACS 72, p. 21, Eff. July 14, 1972.

R 299.2256 Oil, gas, brine, and fresh water.

Rule 56. (1) Oil, gas, brine, and fresh water encountered shall be confined to the strata in which they occur by either of the following:

(a) Specified casing and sealing requirements.

(b) Plugging operations in accordance with part 7.

(2) An unusual, unexpected or difficulty-controllable large volume of oil, gas, brine or flowing fresh water or a condition hazardous to public health, safety, or waters of the state shall be reported immediately to the supervisor.

History: 1954 ACS 72, p. 22, Eff. July 14, 1972.

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R 299.2257 Removal or stripping of casings.

Rule 57. Removal or stripping of a casing from a well during drilling or after completion is permitted only when approved by the supervisor.

History: 1954 ACS 72, p. 22, Eff. July 14, 1972.

R 299.2261 Initial testing of storage wells, cavities, and reservoirs.

Rule 61. Data shall be reported to the supervisor demonstrating that a storage well, cavity or reservoir is suitable for the proposed use. These data shall be obtained by appropriate testing and measurement procedures, including the following:

(a) The casing, tubing and well head equipment shall be pressure tested at a minimum of 133% of the expected operating pressure.

(b) The cavity or reservoir shall be tested to demonstrate to the supervisor that there will be no leaks or losses of fluids into the adjacent formations at expected operating pressure.

(c) The size, shape, and volume of the cavity or reservoir shall be determined as accurately as practicable.

History: 1954 ACS 72, p. 22, Eff. July 14, 1972.

R 299.2262 Initial testing of disposal wells.

Rule 62. (1) Tests, logs, and direct measurements shall be conducted to determine to the satisfaction of the supervisor that the well and disposal formations are suitable for disposal or storage of wastes and that overlying and underlying rock units, zones, intervals, beds, or formations are adequate to confine disposed or stored fluids. The tests shall include, but not be limited to, the following data:

(a) Physical, chemical, and lithologic properties of formation materials and fluids.

(b) Formation porosity and permeability.

(c) Compatibility of waste or stored fluids with naturally-occurring formation fluids and formation materials.

(d) Formation temperature and pressure.

(2) Tests, logs, and direct measurements shall be conducted in accordance with procedures acceptable to the supervisor. Results shall be filed with the supervisor. Waste products or stored materials shall be injected and confined to the zone, interval, bed or formation designated for disposal or storage use. Compliance with the act and rules promulgated thereunder does not obviate the necessity of compliance with any order or other action of the water resources commission in accordance with Act No. 245 of the Public Acts of 1929, as amended, or any other pertinent act.

History: 1954 ACS 72, p. 22, Eff. July 14, 1972.

R 299.2265 Periodic testing of brine wells.

Rule 65. Testing shall be accomplished not less than biennially on a brine well to determine and locate leaks or losses of fluids or pressure in tubing, casing, surface or drive pipe and well head equipment. Results of the testing shall be reported to the supervisor. The supervisor may accept continuous monitoring data in lieu of some periodic testing.

History: 1954 ACS 72, p. 22, Eff. July 14, 1972.

R 299.2266 Operation of brine wells.

Rule 66. (1) The handling, piping and surface storage of brines shall be accomplished in a manner to prevent leaks and losses into surface or underground waters.

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(2) The use of unlined surface pits or earthen reservoirs is prohibited.

(3) Records of volume of fluids withdrawn and injected shall be maintained on a monthly basis. These records shall be preserved by the operator and be subject to inspection and evaluation by the supervisor. The operator shall file an annual report with the supervisor showing:

(a) Volume relationship or withdrawal-injection ratios.

(b) A summary statement or tabulation of injection pressures and injection pressure variations.

(4) Any anomalous condition, including a rate or pressure variation, shall be reported promptly to the supervisor.

History: 1954 ACS 72, p. 22, Eff. July 14, 1972.

R 299.2267 Periodic testing of storage and disposal wells.

Rule 67. At least once during each calendar quarter a storage or disposal well shall be tested by the operator by the variable-rate input method, the pressure fall-off test or any other performance test as the supervisor may require or approve. Sufficient data shall be collected during each calendar year to facilitate analysis of static and injection formation pressures, storage zone limits or boundaries, changes in formation characteristics, and other information commonly derivable from such tests. Data shall be preserved by the operator for inspection by the supervisor or his agent. At the end of each calendar year a summary and analysis of test data shall be supplied to the supervisor. The supervisor may accept continuous monitoring data in lieu of some periodic testing.

History: 1954 ACS 72, p. 23, Eff. July 14, 1972.

R 299.2268 Operation of storage and disposal wells.

Rule 68. (1) Anomalous behavior of a storage or disposal well shall be reported promptly to the supervisor. In case of an anomalous behavior arising from or likely to arise from storage or disposal practices, the supervisor may order reduction or cessation of storage or disposal operations, may order additional testing by the operator or may order the drilling of an observation well by the operator to provide additional data on the movement and behavior on injected fluids, indigenous formation fluids, or stored fluids.

(2) Elimination and correction of leaks or losses of fluids or pressure in wells, reservoirs and surface installations shall be made immediately.

(3) An operation which may cause or create a condition endangering public health or welfare shall be avoided.

(4) Adequate equipment and installations at a disposal well for appropriate testing and monitoring of the operation shall be used.

(5) Wastes shall be treated before injection unless otherwise approved by the supervisor.

(6) Records or reports, forms, charts of operating pressures, rates of injection, types and volumes of fluids injected or withdrawn and other pertinent information shall be maintained and submitted monthly to the supervisor or at other specified times.

(7) Wastes shall be treated and stored before injection in a manner to avoid surface or groundwater pollution.

(8) A request for change of status shall be filed before any rework operations are commenced.

(9) Volumes, injection rates and pressures used shall not exceed those specified in the approval of the disposal or storage use.

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(10) Only wastes specified in the statement required by R 299.2213 may be injected into a well.

(11) Not less than 1 observation well, located within 100 feet of the disposal well, shall be provided for each well used for the disposal or storage of radioactive materials. An observation well shall penetrate, as a minimum, the formational unit immediately overlying and confining the disposal formation. The well or wells shall be used for continuous control and monitoring on a scale commensurate with the level of the radioactivity.

History: 1954 ACS 72, p. 23, Eff. July 14, 1972.

PART 6. RECORDS

R 299.2271 Kinds and filing.

Rule 71. (1) A person who drills a mineral well shall keep, preserve and file with the supervisor drilling logs, sample logs, and electric or radiation or other physical, chemical or mechanical logs as designated or approved by the supervisor. Logs shall consist of data accurately recorded during drilling, deepening, reworking and testing of wells or the subsequent analysis or description of earth materials removed. Logs shall be filed within 60 days after the completion of drilling, except test wells drilled in accordance with R 299.2222 to R 299.2227, on forms prescribed or approved by the supervisor.

(2) The permittee shall obtain and transmit to the supervisor the records and logs of work done on wells by contractual service companies that specialize in logging or cementing or other special well treatment procedures.

History: 1954 ACS 72, p. 23, Eff. July 14, 1972.

R 299.2272 Contents.

Rule 72. A log of a mineral well shall include all normally recorded information for the particular type well being constructed and shall include, but not be limited to:

(a) For a test well, the owner's name, permit number, site location, elevation, drilling contractor, drilling method, casing record, description, and thickness of geologic materials penetrated, static water levels, flowing water zones, total depth, beginning and completion dates, occurrences of oil, gas or salt water and description of procedures and materials used in plugging.

(b) For a brine, storage, or disposal well, the owner's name, permit number, site location, elevation, drilling contractor, drilling method, casing record, cementing record, description and thickness of geologic materials penetrated, total depth, static water levels, flowing water zones, occurrences of oil, gas or salt water, beginning and completion dates, data on perforating, acidizing, fracturing, shooting and testing; electrical, radiation or other types of mechanical, chemical or physical records; sample descriptions, core descriptions, data on well head completion and data on subsurface equipment installed.

(c) For a reworked well, the owner's name, permit number, site location, contractor's name, reason for rework, changes made within the well and at the well head and reports of testing accomplished.

History: 1954 ACS 72, p. 24, Eff. July 14, 1972.

R 299.2273 Confidentiality.

Rule 73. Records shall be kept confidential as follows:

(a) A log of a brine or test well shall be kept confidential for 10 years after well completion, except as otherwise released by the owner.

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(b) A log of an exploratory test well shall be kept confidential until released by the owner or operator.

(c) A log of a brine or test well for exploratory purposes shall be kept confidential until the owner is no longer an active producer, mineral lease holder, or owner of mineral lands in the state.

History: 1954 ACS 72, p. 24, Eff. July 14, 1972.

PART 7. PLUGGING

R 299.2281 Plugging of mineral wells.

Rule 81. A mineral well shall be plugged promptly after abandonment or termination of the project in accordance with plugging procedures specified by the supervisor. A well which has been inactive for 1 year is considered to have been abandoned unless otherwise authorized by the supervisor.

History: 1954 ACS 72, p. 24, Eff. July 14, 1972.

R 299.2282 Plugging of brine, storage, and disposal wells, cavities, and reservoirs.

Rule 82. (1) The abandonment of a brine, storage, or disposal well, a solution cavity, or a reservoir shall require the filing of a notice of intention to abandon on a prescribed form and plugging instructions shall be issued by the supervisor before plugging operations are commenced.

(2) The plugging instructions shall specify the type and amount of plugging material to be used, depths at which bridges may be set, depths and lengths of cement plugs, and other requirements for adequate plugging.

(3) Fluids and gases shall be confined to the strata in which they occur by the use of mud-laden fluid, cement, other suitable material or combinations thereof. The amount, type and kind of material and the method of placement shall be prescribed or approved by the supervisor.

(4) The surface or drive pipe shall be abandoned with the hole, except when otherwise approved by the supervisor.

(5) The surface or drive pipe shall be cut off below ground level, except as otherwise approved by the supervisor and a cement plug, welded plate, or other approved seal placed at the top of the pipe.

History: 1954 ACS 72, p. 24, Eff. July 14, 1972.

R 299.2283 Plugging of test wells.

Rule 83. (1) Plugging of a test well shall be accomplished in accordance with specifications made at the time of the application for a permit to drill. The plugging operation may require the use of mud-laden fluid, cement, other suitable material, or a combination of 2 or more of these items. Fluids and gases shall be sealed off and confined to the strata in which they occur. A suitable plug may be required at the surface.

(2) The plugging of a test well drilled without issuance of a permit shall be in the manner as a test well for which a permit was issued.

History: 1954 ACS 72, p. 24, Eff. July 14, 1972.

R 299.2285 Clean-up of abandoned well sites.

Rule 85. The well pit or cellar and all pits and excavations shall be filled and leveled off at the surface, debris shall be removed and all conditions which may create a nuisance or a fire or pollution hazard shall be eliminated. The surface of the abandoned well site shall be returned as nearly as possible to its original condition.

History: 1954 ACS 72, p. 25, Eff. July 14, 1972.

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R 299.2287 Plugging reports and records.

Rule 87. (1) A report shall be filed with the supervisor after plugging of a test well. This report may cover a number of wells drilled under a blanket permit.

(2) Well plugging records shall be filed on prescribed forms following the plugging of a brine, storage, disposal, and single test well. This record shall indicate how the well was plugged, the casing recovered and abandoned with the hole and the condition of the abandoned well site.

(3) The plugging record on a test well drilled without the issuance of a permit shall be attached to or made a part of the log when it is filed after the prescribed 2 years.

(4) Plugging records for a brine, storage or disposal well shall be filed within 30 days after completion of the plugging.

History: 1954 ACS 72, p. 25, Eff. July 14, 1972.

PART 8. ADMINISTRATION

R 299.2291 Forms.

Rule 91. Forms required by these rules are prescribed by the supervisor and will be available from his office.

History: 1954 ACS 72, p. 25, Eff. July 14, 1972.

R 299.2292 Public hearing requests and petitions.

Rule 92. (1) The supervisor, the board or any person affected by a mineral well matter may request or petition for a public hearing before the supervisor or the board to consider the need or advisability of an action or order by the supervisor. The purpose of the hearing will be to receive evidence, testimony, statements, and exhibits pertaining to the matter to be heard.

(2) A petition or written request by any person other than the supervisor or board for a hearing shall be filed with the supervisor and shall include the following and other information which may be pertinent:

(a) Name and address of petitioner.

(b) Purpose for which the hearing is requested.

(c) Descriptions, sections, townships and counties involved in the matter to be heard.

(d) Maps, plats, and exhibits which may be useful in considering the matter to be heard.

(e) Names and addresses of persons known to be concerned with the matter to be heard and who should be notified of the hearing.

(f) Name of the newspaper circulated in the area of the matter to be heard.

History: 1954 ACS 72, p. 25, Eff. July 14, 1972.

R 299.2293 Notice of public hearings.

Rule 93. The supervisor shall prepare notices of all public hearings. Notice of the time, place, and issues involved shall be published once each week for 2 consecutive weeks in a newspaper circulated in the area where the matter of concern is located. The last date of publication shall be at least 3 days before the date set for hearing. The petitioner is responsible for the publishing of notices and payment for the publishing, except that the supervisor is responsible for the publishing and payment for the publishing on a hearing initiated by him.

History: 1954 ACS 72, p. 25, Eff. July 14, 1972.

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R 299.2294 Service of notices.

Rule 94. A person whose name is listed in the petition, or otherwise known by the supervisor or the petitioner to be concerned, shall be furnished with a copy of the notice by certified or registered mail. The petitioner shall furnish these notices and submit return receipts and affidavits of publication to the supervisor before the date of the hearing.

History: 1954 ACS 72, p. 25, Eff. July 14, 1972.

R 299.2295 Determinations by supervisor.

Rule 95. The board shall participate in all hearings and shall meet privately with the supervisor following each hearing. It shall review the evidence and testimony submitted and make recommendations thereon to the supervisor. The supervisor, after evaluating the evidence and testimony and giving due consideration to the recommendations of the board, shall adopt the appropriate rule or order or make the determination which in his judgment is warranted on the matter.

History: 1954 ACS 72, p. 26, Eff. July 14, 1972.

R 299.2296 Emergency orders of supervisor.

Rule 96. An emergency order may be issued by the supervisor without public hearing and with immediate effect to apply to situations requiring prompt control of pollution or elimination of any other hazardous condition. An emergency order shall remain in effect not more than 21 days. It becomes void unless made permanent or replaced by a new order adopted following a public hearing which shall be promptly commenced.

History: 1954 ACS 72, p. 26, Eff. July 14, 1972.

R 299.2297 Extension of time for compliance.

Rule 97. The supervisor may grant an extension of time for compliance with these rules after receipt of a written request from an operator setting forth appropriate evidence acceptable to the supervisor.

History: 1954 ACS 72, p. 26, Eff. July 14, 1972.

R 299.2298 Enforcement by supervisor.

Rule 98. The supervisor by virtue of sections 14 and 16 of the act is empowered to enforce all rules, issue orders and instructions necessary to enforce these rules, order suspension or correction of any operation, condition or practice which is causing or resulting, or threatening to cause or result, in surface or underground waste and do whatever is necessary to carry out the purpose and intent of the act and the rules, whether or not such orders or instructions are indicated, specified or enumerated in the act or in the rules.

History: 1954 ACS 72, p. 26, Eff. July 14, 1972.

WILDLIFE DIVISION

GAME BREEDERS

(By authority conferred on the department of natural resources by section 10 of Act No. 191 of the Public Acts of 1929 and sections 9 and 253 of Act No. 380 of the Public Acts of 1965, as amended, being §§317.80, 16.109, and 16.353 of the Michigan Compiled Laws)

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R 299.2521 Definitions.

Rule 1. (1) "Animals" means wild animals and wild birds protected by the laws of this state.

(2) "Department" means the department of natural resources.

History: 1954 ACS 69, p. 42, Eff. Sept. 13, 1971.

R 299.2522 Licenses.

Rule 2. (1) A person wishing to breed and sell migratory birds, such as ducks or geese, shall comply with federal regulations before a state license will be issued. This includes physical marking of waterfowl by removal of the hind toe on the right foot of each bird before it reaches the age of 4 weeks.

(2) A separate game breeder's license is required for each project located on separate premises although operated and owned by the same person or entity.

(3) A game breeder's license shall be amended when a licensee secures additional numbers and kinds of breeding stock to be kept on the area already licensed.

History: 1954 ACS 69, p. 43, Eff. Sept. 13, 1971.

R 299.2523 Enclosures and sanitation.

Rule 3. Animals held in captivity shall be confined at all times in cages or enclosures of such strength and type of construction that it will be impossible for the animals to escape, and shall not be chained or otherwise tethered to stakes, posts, trees, buildings, or other anchorage. Cages and enclosures shall be of sufficient size to give the animals confined ample space for exercise and to avoid overcrowding, and shall be provided with rainproof dens, nest boxes, shelters, perches, and bedding as required for the comfort of the species held in captivity and to protect them against inclement weather or extreme heat. Animals in captivity shall be handled in a sanitary and humane manner and kept free as far as practicable from parasites, sickness, or disease.

History: 1954 ACS 69, p. 43, Eff. Sept. 13, 1971.

R 299.2524 Acquisition and disposition of animals.

Rule 4. (1) Animals in captivity under a game breeder's license shall have been acquired in a lawful manner. As evidence thereof, the receipted invoice, bill of lading, shipping tag purchased from the department, or other satisfactory evidence shall be presented for inspection upon request by an authorized officer.

(2) When animals have been presented to an organization or agency by the department, such as the gift of orphan fawns to a municipal park or zoo, the owners of the animals or their offspring may dispose of them only in a manner approved by the department.

History: 1954 ACS 69, p. 43, Eff. Sept. 13, 1971.

R 299.2525 Shipping and identification tags.

Rule 5. (1) Products produced under authority of the game breeders' license law, Act No. 191 of the Public Acts of 1929, as amended, being §§317.71 to 317.84 of the Michigan Compiled Laws, shall be identified with official shipping tags or identification tags (ID tags), or both, available from the department at a cost of 2 cents each, before removal from licensed premises. The tags shall identify the products as having been produced and sold legally. The shipping tags shall be constructed in 2 sections: 1 part retained with the shipment and the other section retained by the shipper.

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(2) The shipping tags and identification tags shall be securely attached to the products or containers, shall be readily visible, and shall remain attached until the products are ready to be used or consumed or until live animals are released from crates or other containers. A person shall not reuse a tag.

History: 1954 ACS 69, p. 43, Eff. Sept. 13, 1971.

R 299.2526 Attachment of identification tags.

Rule 6. (1) The procedure for identifying various products produced on a licensed game breeder's premises is as set forth in the remainder of this rule and R 299.2527 and R 299.2528.

(2) An identification tag shall be fastened securely to the leg or wing of each carcass of a field or market-dressed bird, small game animal or fur-bearing animal or to each package, wrapper, bag or carton containing such an item or its parts or products. An identification tag shall be attached to each package, wrapper, bag or carton containing a portion of a big game animal such as a white-tailed deer, elk, moose, or black bear. When several individually wrapped, bagged or packaged products are placed and shipped in a crate, box or other container, the crate, box or other container shall be identified through use of a shipping tag as described in R 299.2527.

History: 1954 ACS 69, p. 43, Eff. Sept. 13, 1971.

R 299.2527 Shipping tags for live animals and eggs.

Rule 7. Shipments of live animals and birds' eggs shall be identified by shipping tags as follows:

(a) When a licensed game breeder, or a purchaser of live animals or birds' eggs produced by a licensed game breeder, or an employee of the licensee or purchaser is in the act of transporting crated or boxed live animals or birds' eggs, he shall have on his person 1 shipping tag provided by each vendor and on which are listed the numbers and kinds of licensed products included in the shipment in his charge. The tag shall include the names and addresses of the licensed game breeder and purchaser, date of shipment, number and kind of product being transported and the game breeder's license number.

(b) When a common carrier is hired to transport live animals or eggs produced by a licensed game breeder, a shipping tag shall be fastened securely to each crate, box, or other container used for transporting the live animals or eggs from the licensed premises.

History: 1954 ACS 69, p. 43, Eff. Sept. 13, 1971.

R 299.2528 Shipping tags for carcasses, pelts, and hides.

Rule 8. A shipping tag shall be attached securely to each field-dressed or hog-dressed carcass of a big game animal, each animal pelt, and each animal hide produced by a licensed game breeder.

History: 1954 ACS 69, p. 44, Eff. Sept. 13, 1971.

R 299.2529 Return of surplus shipping and identification tags.

Rule 9. A licensed game breeder who discontinues operations shall return to the department all surplus shipping tags and identification tags within 15 days after expiration of his license. The department shall refund the full value of the items returned.

History: 1954 ACS 69, p. 44, Eff. Sept. 13, 1971.

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R 299.2533 Reports.

Rule 13. A licensee shall file a monthly report with the department, listing all sales and shipments by date, species, and number sold or shipped and to whom sold or shipped, except that such information need not be reported when dressed carcasses are sold to individuals for personal or home consumption and not for resale. A report shall be filed for a month in which shipments are made, within 15 days after the end of the month. A report need not be filed for a month in which shipments are not made. An annual report shall be filed with the department within 15 days after expiration of a game breeder's license. The department shall make available monthly and annual report forms.

History: 1954 ACS 69, p. 44, Eff. Sept. 13, 1971.

R 299.2539 Rescission.

Rule 19. The "Rules and Regulations Governing the Breeders' License Law," being R 299.41 to R 299.46 of the Michigan Administrative Code and appearing on pages 1904 and 1905 of the 1954 volume of the Code are rescinded.

History: 1954 ACS 69, p. 44, Eff. Sept. 13, 1971.

FORESTRY DIVISION

COMMERCIAL FORESTS

(By authority conferred on the department of natural resources by section 1 of Act No. 94 of the Public Acts of 1925, as amended, and sections 9 and 252 of Act No. 380 of the Public Acts of 1965, being §§320.301, 16.109, and 16.352 of the Michigan Compiled Laws)

R 299.2601 Applications; contents.

Rule 1. (1) An application requesting the listing of lands shall be in writing upon a form prescribed by the department of natural resources.

(2) Application shall be made under oath and shall include the endorsement of a notary public or other official authorized to administer sworn or affirmed statements.

(3) A separate application shall be prepared for each county covering all lands for which listing is desired.

(4) Lands applied for shall be listed in the application, and shall be considered for eligibility as separately described tracts as individually listed on current ad valorem tax tolls. Consolidation of tracts within a single section into a single description shall be done where appropriate.

(5) An application shall contain a full description of each tract applied for, including the name of the county, township, town, range, section, section subdivision, fully described exceptions or partial descriptions, and net acreage applied for listing. The net acreage shall include area subject to easement by grant or by prescription but shall not include the area of rights-of-way severed from descriptions and held in separate ownership.

(6) An application shall be limited to descriptions apparently eligible.

History: 1954 ACS 69, p. 44, Eff. Nov. 30, 1971.

R 299.2602 Application; time limits.

Rule 2. Applications shall be submitted by August 1 for consideration for listing for the subsequent year. Applications received after August 1 shall be carried forward for processing the following year.

History: 1954 ACS 69, p. 45, Eff. Nov. 30, 1971.

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R 299.2603 Listing certificates.

Rule 3. (1) Descriptions approved by the department for listing shall be recorded on a listing certificate and sent to the applicant for signature. A listing certificate shall be prepared for each county in which the applicant owns eligible lands.

(2) The signed listing certificate shall be returned in duplicate to the department, together with the appropriate recording fee. The department shall forward the completed certificate to the county register of deeds for recording and shall notify appropriate township supervisors of those lands certified for listing by the department before January 1.

(3) A description included in a notice dated before January 1 and sent to the respective supervisor shall be removed from the ad valorem general property tax roll for the ensuing year and placed upon a special tax roll to be taxed at a specific annual rate in accordance with section 5 of the act as long as the description remains registered under the act.

History: 1954 ACS 69, p. 45, Eff. Nov. 30, 1971.

R 299.2604 Lands; eligibility for listing.

Rule 4. (1) Land shall meet the requirements of character and use prescribed in sections 1a and 2 of the act.

(2) A tract of less than 40 acres is not eligible for listing unless it adjoins lands already listed or being listed, unless the area is less than 40 acres because the tract is a fractional survey description or because of outstanding rights of way or easements, and the tract is a reasonable and economic management unit primarily valuable as a commercial forest.

(3) A tract within the boundaries of a city or village is not eligible for listing.

(4) A tract zoned contrary to the intent of the act is not eligible for listing.

(5) A tract having potential for residential, industrial, intensive recreation or resort use by reason of location or presence of features such as water frontage, is not eligible for listing if the value of the land for such use is recognized in the determination of ad valorem tax assessment at the time of application. Frontage on improved roads in an area not presently highly developed or where a shortage of land available for other than forestry purposes is not anticipated within a reasonable period of time may be considered for listing if otherwise eligible.

(6) A tract having known or anticipated mineral deposits of economic value is not eligible for listing, except that when subsurface minerals are separately owned, the surface owner may apply for listing of the lands. The leasing of mineral rights by the owner of both surface and minerals constitutes use of the land for mineral or commercial purposes other than the production of forest products and the lands are not eligible for listing during the term of a lease.

(7) In determining the eligibility of land from the standpoint of productivity, stocking and timber condition requirements specified in section 2 of the act, consideration shall be given to the degree to which full productive potential is achieved.

(8) An individual description having significant nonstocked area or significant areas of nonproductive land or mature timber is not eligible unless the description is a contiguous part of a larger eligible ownership already listed or being offered for listing.

(9) A description containing contiguous nonstocked but productive land or areas of mature timber in excess of 10 acres in size is not eligible until the condition is corrected.

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(10) A description containing greater than 50% nonproductive land is not eligible for listing unless it is essential to provide necessary ingress and egress to or between lands accepted for listing.

(11) In considering stocking and productivity, the total forest property of an owner listed or applied for under the act and the pattern of occurrence and condition shall be considered.

(12) Land managed exclusively for the production of Christmas trees or for the production of wood fiber crops normally harvested at an age of 10 years or less is not eligible for listing. The incidental harvest of Christmas trees or other trees at an age of 10 years or less in addition to forest products produced under normal and natural rotations shall not preclude the eligibility of land for listing. Land managed for production of Christmas trees and approved for listing prior to 1971 shall not be required to be withdrawn from listing by this rule.

History: 1954 ACS 69, p. 45, Eff. Nov. 30, 1971.

R 299.2605 Criteria to determine compliance with act.

Rule 5. The use of land listed as commercial forest shall comply fully with the requirements of the act and the following criteria:

(a) Land may not contain a building or improvements other than those used exclusively for the conduct of forest management or logging operations.

(b) Land shall not be used or obligated for any commercial purpose other than the production of forest products, and shall not be managed in a manner detrimental to the growth and development of timber products to the full potential of the site. An easement may be granted to accommodate needs for transportation and utilities if in the opinion of the department the effect on the productivity of the land is reasonable and justified. Noncommercial uses compatible with good forest management and full productivity of the lands are permissible.

(c) Listed land shall be open to the public for purposes of hunting and fishing. Land shall not be posted in any manner as to restrict or infer restriction of entry for hunting and fishing.

History: 1954 ACS 69, p. 46, Eff. Nov. 30, 1971.

R 299.2606 Harvest of forest products.

Rule 6. The harvest of forest products from listed land shall be limited to areas, species, and classes of products identified in permits issued by the department and in effect at the time of cutting. A permit shall not be required for cultural operations conducted for stand improvement purposes where no merchantable products are cut, utilized or destroyed.

History: 1954 ACS 69, p. 46, Eff. Nov. 30, 1971.

R 299.2607 Reports.

Rule 7. Semiannual reports as required in section 9 of the act shall be submitted upon a form provided by the department. A report shall be identified as either intermediate or final. A report identified as final shall include all of the products previously unreported that have been cut under the permit to which it applies and further cutting may not be done under that permit. Semiannual reports shall be submitted covering all periods during which a permit is in effect even though material has not been cut during the reporting period, except that submission of a final report constitutes termination of an otherwise continuing permit and a subsequent report is not required.

History: 1954 ACS 69, p. 46, Eff. Nov. 30, 1971.

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R 299.2608 Withdrawal of listed lands.

Rule 8. When an owner desires to withdraw all or part of his listed lands, he shall notify the department in writing of the descriptions to be withdrawn. The department shall appraise the appropriateness of the application. If the withdrawal would result in the retention of land under listing that by itself is ineligible for listing, the department may require the withdrawal of adjacent lands in addition to those contained in the initial withdrawal application. The department shall draft and forward to the applicant a withdrawal certificate prepared in duplicate and indicating the withdrawal fees computed in accordance with section 7 of the act. Upon receipt of the signed certificate in duplicate, together with the indicated computed withdrawal and recording fees, the department shall certify the withdrawal as provided in section 7 of the act. The date of the certification shall be the effective date of the withdrawal, after which the provisions of the act shall no longer apply to the lands withdrawn. The lands shall be subject to the specific tax and not the ad valorem tax for the year in which withdrawn.

History: 1954 ACS 69, p. 46, Eff. Nov. 30, 1971.

R 299.2609 New rates of fees or taxes.

Rule 9. New rates of fees or taxes or changes in their distribution enacted into law shall be effective as of the effective date of the amending act. The new rates shall apply to the entire year during which the amending act becomes effective. However, if the act becomes effective after December 1, the new rates shall not become effective until the subsequent tax year. If land is withdrawn from listing during a year that an amending act becomes effective and prior to the effective date of the amending act, then the old rates of withdrawal fees and the annual specific tax and state payment shall be applied.

History: 1954 ACS 69, p. 47, Eff. Nov. 30, 1971.

R 299.2610 Transfers of title.

Rule 10. Transfer of title does not alter the listing when the eligibility of land is unaffected if the new owner desires the lands to remain listed. The seller shall notify the department in writing of the transfer promptly. A title transfer which results in the establishment of a separately owned tract which does not meet basic eligibility requirements shall result in the withdrawal of the tract from listing under the act. When the state is acquiring listed lands by purchase, gift, or exchange, the lands shall be withdrawn before the transaction is consummated.

History: 1954 ACS 69, p. 47, Eff. Nov. 30, 1971.

R 299.2611 Trespass.

Rule 11. The department of natural resources is not responsible for protection of listed lands against trespass upon the forest products. In case of trespass, the owner is liable to the department for the yield tax based on the stumpage value of the products removed, in the same manner as though the cutting had been done under permit from the department.

History: 1954 ACS 69, p. 47, Eff. Nov. 30, 1971.

R 299.2612 Rescission.

Rule 12. The rules entitled "Rules and Regulations Concerning Commercial Forest Reserves," being R 299.261 to R 299.275 of the Michigan Administrative Code and appearing on pages 1925 to 1927 of the 1954 volume of the Code, are rescinded.

History: 1954 ACS 69, p. 47, Eff. Nov. 30, 1971.

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LAW ENFORCEMENT DIVISION

USE OF RIVERS

(By authority conferred on the commission of natural resources by sections 3 and 3a of Act No. 17 of the Public Acts of 1921, as amended, and sections 9 and 255 of Act No. 380 of the Public Acts of 1965, as amended, being §§299.3, 299.3a, 16.109, and 16.355 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 299.2701 Purpose and applicability.

Rule 1. (1) The purpose of these rules is to implement section 3 of Act No. 17 of the Public Acts of 1921, as amended, being §299.3 of the Michigan Compiled Laws.

(2) This part applies to all rivers, except as otherwise specifically provided, which are covered in part 2 of these rules, and which may subsequently be covered by amendments or additions to these rules.

History: 1954 ACS 72, p. 26, Eff. July 12, 1972.

R 299.2704 Definitions.

Rule 4. As used in these rules:

(a) "Department" means the department of natural resources.

(b) "Livery operator" means a person with an established location of business who owns 3 or more watercraft and who rents them to the public for use on a designated river stretch.

History: 1954 ACS 72, p. 26, Eff. July 12, 1972.

R 299.2709 Responsibilities of livery operators or other persons who have watercraft for rent.

Rule 9. (1) A livery operator or other person who has watercraft for rent in a stretch of a river designated for non-motor watercraft use shall comply with this rule during the entire year.

(2) He shall for the occupants of each watercraft rented (a) give them a map of the river which identifies public stops and facilities; (b) provide a litter bag and instructions on its use; (c) make them aware that the river is patrolled; and (d) give them instructions by printed rules as to the proper use of the river, adjacent lands and watercraft, including information on respect for private property and penalties for violations of river rules. The map and printed materials shall be those which will be prepared by the department.

(3) He shall keep a log, by assigned watercraft, of the verified name and address of the responsible person renting each watercraft or the leader responsible for a group.

History: 1954 ACS 72, p. 27, Eff. July 12, 1972.

R 299.2710 Responsibilities of river users.

Rule 10. (1) A person using a stretch of a river designated for non-motor watercraft use shall comply with this rule during the entire year.

(2) Public facilities provided and marked for particular purposes such as toilets, picnic areas and campgrounds are the only facilities to be used by non-guest, nonriparians for those purposes.

(3) Food and beverage items shall be transported in a closed container attached to a watercraft. Litter shall be kept in this container or in a litter bag attached to a

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watercraft. A person wading the river shall contain all personal litter in his clothing or in a litter bag.

(4) Rafting or joining together of watercraft is prohibited.

(5) Except for training purposes, the deliberate overturning of watercraft, deliberate actions that may reasonably be expected to lead to overturning, and deliberate actions that interfere with other watercraft users or river users are prohibited.

(6) The possession of rifles, shotguns, pistols, BB guns, cap-pistols, bows and arrows, and other noise-making or injury-producing instruments is prohibited in watercraft, except from September 15 to December 31.

(7) A river user shall act so as to not damage (a) the stream bed; (b) fish, wildlife, or plant habitats in the river; (c) stream improvement devices; and (d) live or dead vegetation and soil in the river or on the adjoining banks.

History: 1954 ACS 72, p. 27, Eff. July 12, 1972.

R 299.2711 Release and pickup points.

Rule 11. (1) Except in an emergency, only the premises of a livery operator or points designated by the department for release or pickup of watercraft may be used for these purposes. At a bridge crossing, release or pickup may be made only at designated places. However, a riparian owner, or his guest or tenant, may also use the riparian's private property for release or pickup.

(2) Except for the substitution of a new release and pickup point for an existing point, a new private access point for commercial release or pickup of watercraft may not be developed without approval by the department.

History: 1954 ACS 72, p. 27, Eff. July 12, 1972.

R 299.2715 Watercraft permits.

Rule 15. (1) A watercraft renter may obtain a permit for weekend days and holidays at a livery located on or normally serving the river stretches designated for non-motor watercraft use. These permits will be supplied to these liveries by the department. Ten percent of the number of permits specified for such a designated river stretch are available to those who do not use liveries serving these stretches. These permits may be obtained by applying to designated department offices.

(2) Advance reservations for permits may be made by individuals or groups.

(3) The permit for each watercraft shall be in the watercraft or in the possession of an occupant of that watercraft while it is in use on or in connection with a designated river stretch.

(4) The following exceptions will be made in the issuance and use of permits:

(a) A person on a river with a permit may continue downriver into other restricted stretches without an additional permit.

(b) If a person has a permit and camps overnight at a canoe campground, he need not renew the permit daily.

(c) A riparian owner with a single-family lot or with a rental lodge or dwellings on a stretch designated for non-motor watercraft use may obtain a seasonal, nontransferable permit for up to 2 allowed watercraft on that stretch without regard for the daily quota of permits. A guest or tenant of such an owner may also use the seasonal permit. "Single-family lot" means a lot owned and used or intended to be used by a single family or 1 to 4 persons.

(d) An established nonprofit club which is a riparian owner on a stretch designated for non-motor watercraft use and which has at least 5 members as

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co-owners or who support the club with regular payments, may obtain 5 seasonal permits for use by members or their guests.

(e) A bona fide river guide who is not a riparian owner, and who is determined by the department to make a substantial part of his livelihood guiding on stretches designated for non-motor watercraft use, may obtain a seasonal permit for 1 traditional "longboat" or "riverboat" for use on such stretches.

(f) The department may issue a special permit for an emergency, a canoe race, river clean-up, other special event, and practice sessions in connection with an event.

(5) In a stretch designated for protection in any way, special permits may be granted by the department to elderly, crippled, or handicapped persons to use watercraft which is otherwise prohibited.

History: 1954 ACS 72, p. 27, Eff. July 12, 1972.

R 299.2719 Penalties.

Rule 19. As prescribed in section 3a of Act No. 17 of the Public Acts of 1921, a violation of a commission rule is a misdemeanor. The Michigan statutes fix the penalty for a misdemeanor whose punishment is not otherwise provided for by statute.

History: 1954 ACS 72, p. 28, Eff. July 12, 1972.

PART 2. AU SABLE, MANISTEE, PINE, AND PERE MARQUETTE RIVERS

R 299.2721 Applicability of part 2.

Rule 21. This part applies to stretches of the Au Sable, Manistee, Pine, and Pere Marquette rivers hereinafter designated.

History: 1954 ACS 72, p. 28, Eff. July 12, 1972.

R 299.2722 Use of watercraft on designated river stretches.

Rule 22. (1) On stretches of rivers hereinafter designated for non-motor watercraft use, such craft are the only type of watercraft allowed from the last Saturday in April through labor day; and on weekends and holidays during this period, such watercraft may be used only by permit with no more daily permits allowed than specified for each stretch.

(2) On all other stretches of rivers hereinafter designated, watercraft may be used from the last Saturday in April through labor day only as hereinafter specified in R 299.2724 to R 299.2727.

(3) On all stretches of rivers hereinafter designated, this part does not apply from the day after labor day through the day before the last Saturday in April.

History: 1954 ACS 72, p. 28, Eff. July 12, 1972.

R 299.2724 Au Sable river.

Rule 24. (1) On the mainstream of the Au Sable river:

(a) Upstream from Pollak bridge on the south line of section 36, T27N, R4W—watercraft may not be used.

(b) From Pollak bridge to the lower dam in the SE¼, section 7, T26N, R3W, in the city of Grayling—no restrictions on use.

(c) From the lower dam to Wakeley bridge—non-motor watercraft use only, with permits on specified days according to the following schedule: 1972—350 permits; 1973—250 permits; 1974 and each year thereafter—150 permits.

(d) Wakeley bridge to Townline road—motor watercraft may not be used, no other restrictions.

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(e) Townline road to McMasters bridge—motor watercraft permitted at slow, no-wake speed, no other restrictions.

(f) Below McMasters bridge—no restrictions on use.

(2) On the south branch of the Au Sable river:

(a) Above Chase bridge—no restrictions on use.

(b) From Chase bridge to Smith bridge—non-motor watercraft use only, with permits on specified days according to the following schedule: 1972—200 permits; 1973—150 permits; 1974 and each year thereafter—100 permits.

(c) Smith bridge to Oxbow club—motor watercraft may not be used, no other restrictions.

(d) Oxbow club to mouth—motor watercraft permitted at slow, no-wake speed, no other restrictions.

(3) On Shellenbarger creek, between Shellenbarger lake and the mainstream—motor watercraft may not be used, no other restrictions.

(4) On the other tributaries entering the mainstream of the Au Sable river above Parmalee bridge—watercraft may not be used.

History: 1954 ACS 72, p. 28, Eff. July 12, 1972.

R 299.2725 Manistee river.

Rule 25. On the Manistee river:

(a) Upstream from County road 612—watercraft may not be used.

(b) County road 612 to CCC (Sunset Trail) bridge—non-motor watercraft use only, 150 permits on specified days.

(c) Downstream from CCC bridge—no restrictions on use.

History: 1954 ACS 72, p. 29, Eff. July 12, 1972.

R 299.2726 Pine river.

Rule 26. On the Pine river:

(a) Upstream from Edgetts bridge—watercraft may not be used.

(b) Edgetts bridge to Walker bridge—non-motor watercraft use only, 100 permits on specified days.

(c) Walker bridge to Peterson bridge (M-37)—non-motor watercraft use only, 150 permits on specified days.

(d) Peterson bridge to Low bridge—non-motor watercraft use only, 150 permits on specified days.

(e) Low bridge to Manistee river—no restrictions on use.

History: 1954 ACS 72, p. 29, Eff. July 12, 1972.

R 299.2727 Pere Marquette river.

Rule 27. On the Pere Marquette river:

(a) From the Forks to Bowman bridge—non-motor watercraft use only, 150 permits on specified days.

(b) From Bowman bridge to Upper Branch bridge—non-motor watercraft use only, 150 permits on specified days.

(c) Upper Branch bridge to Indian bridge—motor watercraft may not be used, no other restrictions.

(d) Below Indian bridge—no restrictions on use.

History: 1954 ACS 72, p. 29, Eff. July 12, 1972.

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WILDLIFE DIVISION

PUBLIC EXHIBITIONS OF WILD ANIMALS AND BIRDS

(By authority conferred on the director of the department of natural resources and the commission of natural resources by section 2a of chapter 2 of Act No. 286 of the Public Acts of 1929, as amended, and sections 9, 251, and 252 of Act No. 380 of the Public Acts of 1965, being §§312.2a, 16.109, 16.351, and 16.352 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 299.2801 Definitions; A to D.

Rule 1. (1) "Adult" means an animal or bird which has reached the age of maturity.

(2) "Animal" means a wild mammal or wild bird, native or non-native to Michigan.

(3) "Compatible" means the ability of 2 or more animals to coexist in harmony throughout the year. Some animals are not compatible with each other except during their mating seasons such as weasels, mink and opossums.

(4) "Department" means the department of natural resources.

(5) "Director" means the director of the department of natural resources.

History: 1954 ACS 73, p. 8, Eff. Oct. 12, 1972.

R 299.2803 Definitions; P to R.

Rule 3. (1) "Pen" means a cage, small fenced-in plot, or other enclosure in which animals are held under a public exhibition permit.

(2) "Public exhibition" means a place where 1 or more animals listed in R 299.2811 and R 299.2812 are kept in captivity upon any street or highway; upon public or private land adjoining a street or highway; or upon public or private land in the vicinity of a commercial establishment which is for the evident purpose of attracting trade; or any such place which is open at any time for public viewing.

(3) "Range field" means a fenced area in which wild mammals and flightless birds are allowed to roam freely.

History: 1954 ACS 73, p. 8, Eff. Oct. 12, 1972.

R 299.2804 Definitions; W.

Rule 4. "Wildlife park" means an appropriately fenced and supervised range field having foot trails, elevated walkways, roads, or facilities and equipment for moving people such as monorail or railway coaches, cable cars, carts drawn by tractors or horses, or other transportation facilities which may be approved by the director to make it possible for visitors to observe and enjoy wild animals. The purpose of a wildlife park is to provide visitors with a meaningful educational adventure. "Drive-through wildlife park" means a wildlife park consisting of 1 unit having 160 or more acres, consisting of 1 or more range fields and having roads and trails for visitors' vehicles from which the driver and the passengers may observe wild animals as their vehicle travels through the park.

History: 1954 ACS 81, p. 25, Eff. Nov. 14, 1974.

R 299.2807 Time for compliance with statutes and rules.

Rule 7. (1) An applicant for an exhibition permit, who exhibited non-native animals listed under R 299.2811 and R 299.2812 before May 1, 1972, has until December 31, 1973, to adjust operations to conform to the statutes and these rules.

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(2) An applicant who did not exhibit animals for public benefit before May 1, 1972, shall conform to statutes, rules, and pen specifications without delay.

(3) In either instance, the director, upon recommendations of the inspecting officer, may grant in writing an extension of time.

(4) An applicant who exhibited wild native animals under an exhibition permit before the effective date of these rules and complied with the rules and pen specifications then in effect, is not required to reconstruct pens to conform to the new rules, but shall conform when new pens are built. The remaining rules apply to such an applicant.

History: 1954 ACS 73, p. 9, Eff. Oct. 12, 1972.

R 299.2808 Penalty.

Rule 8. A person who violates any of these rules is subject to the penalties prescribed in section 14 of chapter 2 of Act No. 286 of the Public Acts of 1929, as amended, being §312.14 of the Michigan Compiled Laws.

History: 1954 ACS 73, p. 9, Eff. Oct. 12, 1972.

R 299.2809 Rescissions.

Rule 9. The rules entitled "Governing Public Exhibitions of Wild Animals," being R 299.81 to R 299.89 of the Michigan Administrative Code and appearing on pages 1907 to 1909 of the 1954 volume of the Code and the rules entitled "Public Exhibition of Wild Animals," being R 299.91 to R 299.105 of the Michigan Administrative Code and appearing on pages 70 to 75 of the 1955 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 73, p. 9, Eff. Oct. 12, 1972.

PART 2. PERMITS

R 299.2811 Wild mammals for which permits are required.

Rule 11. A permit is required for public exhibition of any of the following wild mammals:

Antelopes
Armadillos
Baboons
Badgers
Bears
Beavers
Bison (buffalo)
Bobcats
Chimpanzees
Chipmunks
Civet cats
Coatimundi
Cougars (puma)
Coyotes
Deer (all species except fallow deer, sika deer and reindeer)
Elk
Fishers
Foxes
Giraffes
Goats (except domestic species)
Gophers

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Hares (except domestic species)
Jaguars
Kangaroos
Kinkajous
Lemurs
Lions
Lynx
Martens
Mink
Monkeys
Moose
Muskrats
Nutria
Ocelots
Opossums
Otters
Peccaries
Porcupines
Prairie dogs
Rabbits (except domestic species)
Raccoons
Rhinoceros
Ringtail cats
Sheep (except domestic species)
Skunks
Squirrels
Tigers
Weasels
Wolverines
Wolves
Woodchucks
Zebras
Hybrids of any of the animals listed above.

History: 1954 ACS 73, p. 9, Eff. Oct. 12, 1972; 1954 ACS 81, p. 25, Eff. Nov. 14, 1974.

R 299.2812 Wild birds for which permits are required.

Rule 12. A permit is required for public exhibition of any of the following wild birds:
Crows
Doves (pigeons)
Grouse
Hawks and eagles
Jungle fowl
Macaws
Ostriches, rheas, emus, cassowaries
Owls
Partridges
Pheasants
Parrots
Quail
Shore birds

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Waterfowl (all wild species of ducks,
geese and swans)
Wild turkeys

History: 1954 ACS 73, p. 9, Eff. Oct. 12, 1972.

R 299.2813 Applications.

Rule 13. (1) An exhibitor at a public exhibition of any animal listed under R 299.2811 and R 299.2812 shall obtain an exhibition permit when the animal is held in captivity for public display. Application for a permit shall be made on a form prepared and furnished by the Michigan Department of Natural Resources, Lansing, Michigan 48926. When animals are exhibited at 2 or more separate locations, applications shall be made for separate permits.

(2) The application shall contain:

(a) Name and address of the applicant.

(b) Location of the proposed exhibit.

(c) The number and kinds of animals listed under R 299.2811 and R 299.2812 which are being or will be exhibited.

(d) Date when animals were obtained.

(e) Source from which animals were obtained.

(f) Number of square feet provided by each pen holding a wild animal.

(g) Approximate space devoted to entire exhibit area.

History: 1954 ACS 73, p. 10, Eff. Oct. 12, 1972.

R 299.2814 Inspections.

Rule 14. A department officer shall inspect animal pens and surrounding premises of an applicant before a permit is issued. He shall determine if the operation complies with the statute and rules. He shall determine if there are any domestic or wild animals not listed under R 299.2811 and R 299.2812 that present a hazard to humans and to any animals on display which are included in R 299.2811 and R 299.2812. He shall submit a report with recommendations to the director.

History: 1954 ACS 73, p. 10, Eff. Oct. 12, 1972.

R 299.2815 Sources of animals.

Rule 15. (1) Animals retained in a public exhibition shall have been obtained in a lawful manner in Michigan or from legal sources outside the state. As evidence of such legal possession, a receipted invoice, bill of lading or other satisfactory evidence shall be presented for inspection upon request by a department officer or other authorized officer.

(2) An exhibition permit shall not be issued to an applicant having foreign or native animals which, at the time of initial application for permit, are included on the endangered wildlife species list of the Bureau of Sport Fisheries and Wildlife, U.S. Department of Interior, Washington, D.C. Since the list is subjected to periodic revisions, it shall be the responsibility of the applicant to determine the status of an animal in relation to an up-to-date list compiled by the U.S. Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

History: 1954 ACS 73, p. 10, Eff. Oct. 12, 1972.

R 299.2816 Display of permits.

Rule 16. A person to whom a permit for a public exhibition is issued, shall frame and publicly display the permit in a prominent place on the licensed premises.

History: 1954 ACS 73, p. 10, Eff. Oct. 12, 1972.

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R 299.2817 Notification of additional numbers and species.

Rule 17. After a person is granted an exhibition permit, he shall inform the department of any additional numbers and species of animals, or both, acquired for public exhibition.

History: 1954 ACS 73, p. 10, Eff. Oct. 12, 1972.

R 299.2818 Expiration, suspension, and revocation of permits.

Rule 18. A permit expires on December 31 of the year for which it is issued, and may be suspended or revoked after a hearing upon reasonable notice for failure to comply with these rules.

History: 1954 ACS 73, p. 10, Eff. Oct. 12, 1972.

PART 3. PENS AND HOUSING

R 299.2821 General provisions.

Rule 21. (1) The specifications listed in this part apply to pens and equipment and shall be considered as minimum requirements. Fence material used for pen or range field enclosures shall not be lighter than the gauge specified. Fence mesh shall be no larger and pen size shall be no smaller.

(2) Any deviation from the specifications because of unusual design, including, but not limited to, moats, islands, pits, and natural or artificial barriers such as fencing or walls, shall be approved by the inspecting officer and the director before a permit is issued.

(3) A range field, enclosed within an appropriate fence which will prevent animals from escaping by digging, climbing, or jumping, and on which 1 species of animal or several species of compatible animals are free to roam, shall be approved by an inspecting officer and the director before a permit is issued.

History: 1954 ACS 73, p. 11, Eff. Oct. 12, 1972.

R 299.2822 Protection of animals.

Rule 22. (1) A permittee shall not chain or otherwise tether to a stake, post, tree, building, or other anchorage an animal held under the permit, except in an emergency situation or when repairs are being made to pens and other facilities associated with captive animals.

(2) A permittee at all times shall confine animals held under his permit in pens or range fields which are maintained in good repair, and which conform to the minimum specifications for pens established hereinafter for each species.

(3) A permittee at all times shall furnish such pens with weatherproof shelters in good repair, and which conform for each species to the minimum specifications for such shelters; furnish appropriate dry bedding required for the comfort of each species so held; and provide protection for all animals against inclement weather and direct rays of the sun.

(4) A permittee shall provide pen floors with good drainage to insure adequate runoff during heavy rains and thawing periods. Quagmire conditions shall not be allowed to prevail. Raised wire-mesh pen floors shall be at least 1 foot above the ground or ground covering.

(5) A permittee shall notify a conservation officer or other authorized officer of the escape of an animal held under permit immediately after the escape is detected.

History: 1954 ACS 73, p. 11, Eff. Oct. 12, 1972.

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R 299.2824 Deer, elk, moose, antelopes, wild sheep species, American bison (buffalo), kangaroos, wild goats, giraffes, and zebras.

Rule 24. (1) A pen for deer, elk, moose, antelopes, wild sheep species, American bison (buffalo), kangaroos, giraffes, or zebras shall have a dirt floor. For hoofed animals a portion of the dirt floor shall consist of abrasive material such as coarse gravel to prevent development of overgrown hoofs.

(2) A pen shall provide 3,000 square feet for from 1 to 5 animals, and 1,000 square feet for each animal in excess of 5.

(3) Walls or fences shall be vertical type except as provided for fawns in subrule (5). An enclosure for deer, wild sheep, wild goats, kangaroos, and antelopes shall be constructed of 11-gauge woven wire with mesh not more than 6 inches in diameter or equivalent. An enclosure for giraffes, zebras, elk, moose, and bison shall be constructed of a 9-gauge woven wire with mesh not more than 6 inches in diameter or equivalent. Posts shall be of heavy-duty quality steel or wood, spaced not more than 12 feet apart. An 8-foot vertical fence, with or without overhang shall be provided for giraffes, white-tailed deer, moose, elk, sheep and goats; a 10-foot vertical fence for antelopes; and a 6-foot vertical fence for zebras, bison, and kangaroos.

(4) A weatherproof shelter with roof and 3 walls and floor space of 40 square feet shall be provided for 1 animal, and 20 square feet for each additional animal; or a lean-to furnishing equivalent space and projection.

(5) Fawns, from birth to October 1 of the year of birth, may be held in a pen with 60-inch walls of 11-gauge fence with mesh not more than 2 inches in diameter and space of not less than 1,000 square feet for from 1 to 5 fawns; and 300 square feet additional for each fawn in excess of 5.

History: 1954 ACS 73, p. 11, Eff. Oct. 12, 1972; 1954 ACS 81, p. 28, Eff. Nov. 14, 1974.

R 299.2825 Bears.

Rule 25. (1) No more than 2 compatible adults of the same species of bear and their offspring of the year shall be held in 1 pen. A pen shall be enclosed completely, including a top.

(2) A pen floor shall be made of concrete 4 inches thick.

(3) A pen shall provide 400 square feet for 1 animal, 576 square feet for 2 animals, and an additional 200 square feet for each offspring.

(4) The framework for the walls and top of a pen shall be made of 3-inch galvanized iron pipe or steel posts of equal or greater strength, with all upright members set 3 feet deep in concrete and spaced 4 feet apart. Cross members (stringers) forming the framework for the top shall be spaced 4 feet apart.

(5) The walls of a pen shall be of 9-gauge chain link fence with mesh no greater than 2 inches in diameter, welded or bolted at the bottom, at each 3-inch interval, to a horizontal crossbar, 2 inches by ⅜-inch in cross section, welded at the ends to the vertical framework of the pen; or vertical steel bars or rods of ⅝-inch diameter, spaced no greater than 3 inches apart, set 4 inches deep in concrete, and having at every 36-inch interval above the floor a horizontal crossbar, 2 inches by ⅜-inch in cross section, welded to each upright member; or 3 walls may be of 8-inch cement block construction. A wall shall be not less than 8 feet high.

(6) The top of a pen shall be of 9-gauge chain link fence similar to walls welded or bolted to cross members at 1-foot intervals.

(7) A wood, concrete or cement block den 4 feet high by 4 feet wide by 6 feet long or equivalent shall be provided for each animal; or 1 den 4 feet high by 6 feet wide by 8 feet long for 2 animals and their offspring of the year. The top shall be constructed of concrete or 2-inch planking covered with exterior grade plywood.

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The floor shall be concrete or concrete covered with fiber glass, heavy-duty exterior grade plywood coated with epoxy coating, tile or similar material to insure sanitation. The entrance shall be 4 feet high and 3 feet wide. A den shall be provided with adequate ventilation opening on the roof or back of the structure to prevent condensation of moisture. Shade shall be provided by covering ¼ to ½ of chain link fence top with exterior grade plywood, fiber glass, metal sheets or similar material.

History: 1954 ACS 73, p. 11, Eff. Oct. 12, 1972.

R 299.2826 Lions, tigers, cougars (puma), and other large cats.

Rule 26. (1) Any number of compatible adult lions, tigers, cougars, and other large cats of the same species and their offspring of the year may be held in 1 pen. A pen shall be enclosed completely, including a top. A top is not required for an enclosure around a range field when its fence is high enough to prevent animals from jumping out and escaping by climbing out of the enclosure.

(2) The floor of the pen shall be of concrete 4 inches thick.

(3) A pen shall provide 400 square feet for 1 animal, 576 square feet for 2 animals, and 200 square feet for each additional animal.

(4) The framework for walls and top of a pen shall be of 3-inch galvanized iron pipe or steel posts of equal or greater strength, with all upright members set 3 feet deep in concrete and spaced 4 feet apart. Cross members (stringers) forming the framework of the top shall be spaced 4 feet apart.

(5) The walls of a pen shall be of 6-gauge chain link fence with mesh no greater than 2 inches in diameter, fastened at the bottom, at each 4-inch interval, to a horizontal crossbar, 2 inches by ⅜-inch in cross section, welded at the ends to the vertical framework of the pen; or vertical steel bars or rods ⅝-inch in diameter spaced no greater than 2¼ inches apart, set 4 inches deep in concrete, and having at every 36-inch interval above the floor a horizontal crossbar, 2 inches by ⅜-inch in cross section, welded to each upright member; or 3 walls may be of 8-inch cement block construction. A wall shall be not less than 12 feet high.

(6) A pen top shall be of 9-gauge chain link fence similar to walls, welded or fastened with bolts and clamps to cross members at 1-foot intervals.

(7) A concrete or cement block den with adequate ventilation, sloping floor for drainage and to facilitate cleaning, 4 feet high by 4 feet wide by 8 feet long shall be provided for each animal; or 1 den 4 feet high by 6 feet wide by 8 feet long for 2 animals. The den floor shall be concrete or concrete covered with heavy-duty exterior grade plywood with epoxy coating or with 2-inch treated planking covered with fiber glass or tile. The top shall be of concrete of 2-inch planking covered with exterior grade plywood. The top shall serve as an outdoor loafing platform. The entrance shall be 4 feet high and 3 feet wide. Shade shall be provided by covering ¼ to ½ of chain link top with exterior grade plywood, fiber glass, metal sheets, or similar material, except when natural shade is available at all times of the day and throughout the year.

History: 1954 ACS 73, p. 12, Eff. Oct. 12, 1972.

R 299.2827 Chimpanzees.

Rule 27. (1) Any number of compatible adult and young chimpanzees of the same species may be held in 1 pen. A pen is not required when walls, islands, moats, and other barriers make it impossible for the animals to escape. The pen shall be completely enclosed, including a top if required to prevent animals from escaping.

(2) The floor of a pen shall be of concrete 4 inches thick.

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(3) A pen shall provide 144 square feet for 1 animal, 256 square feet for 2 animals, and 100 square feet for each additional animal.

(4) The framework for the walls and top of a pen shall be of 2-inch galvanized iron pipe or steel or iron beams of similar strength, with upright members set 2 feet deep in concrete and spaced 4 feet apart. Cross members (stringers) forming the top of the framework shall be of the same size and type of material used for upright members and shall be spaced 4 feet apart.

(5) The walls of a pen shall be of 11-gauge chain link fence with mesh no greater than 2 inches in diameter or similar material bolted or welded at the bottom, at each 4-inch interval, to a horizontal crossbar, 1½ inches by ¼-inch in cross section, welded at the ends to the upright members of framework of the pen; or 3 walls may be of 8-inch cement block construction. A wall shall be 12 feet high.

(6) The top of a pen shall be 11-gauge chain link fence, similar to walls, welded or fastened with bolts and clamps to cross members at 1-foot intervals.

(7) Adequate perching facilities and exercise bars shall be provided.

(8) A wooden shelter 2½ feet high by 2½ feet wide by 4 feet long shall be provided for 1 animal. Entrance to the shelter shall be 2 feet by 2 feet. The shelter shall be constructed of ¾-inch exterior grade plywood or similar material and shall be securely fastened near the top of the pen.

History: 1954 ACS 73, p. 13, Eff. Oct. 12, 1972.

R 299.2828 Wolves, coyotes, lynx, ocelots, jaguars, and wolverines.

Rule 28. (1) Not more than 2 compatible adults of the same species of coyotes, lynx, ocelots, jaguars, or wolverines and their offspring of the year shall be held in 1 pen. Any number of compatible adults wolves and their young may be held in 1 pen.

(2) The floor of the pen shall be of concrete 4 inches thick.

(3) A pen shall provide 300 square feet per animal and 100 square feet for each additional animal.

(4) The walls and top of a pen shall be of 14-gauge either expanded metal or hexagonal mesh no greater than 1½ inches in diameter, or 14-gauge welded steel fabric with mesh 1 inch by 2 inches. Framework shall be of 2-inch galvanized pipe, heavy-duty wooden posts or material of equal strength and durability. Uprights shall be spaced 4 feet apart and set in 3 feet of concrete. The walls of a pen for lynx, ocelots, and jaguars shall be 8 feet high. The walls of a pen for wolves, coyotes, and wolverines shall be 6 feet high. A pen holding animals which can escape by climbing or jumping shall be covered with appropriate fence material.

(5) A weatherproof, concrete or cement block den box, 3 feet high by 3 feet wide by 4 feet long shall be provided for each animal, or 1 box 4 feet high by 4 feet wide by 6 feet long for 2 animals. The floor of the den box shall be concrete or concrete covered with 2-inch wood planking, fiber glass or tile. The top of the den shall be of concrete or 2-inch wood planking covered with exterior grade plywood. The top of the den shall serve as an outdoor loafing deck. A heated building shall be provided during periods of low temperature for animals native to areas having a warm year-round climate. The floor shall have some slope for drainage and to facilitate cleaning. The entrance shall be 2½ feet high and 2 feet wide. Shade shall be provided by covering ¼ to ½ of wire-mesh top with exterior grade plywood, fiber glass, metal sheets or similar material.

(6) Adequate perching facilities shall be provided for species requiring such features.

History: 1954 ACS 73, p. 13, Eff. Oct. 12, 1972.

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R 299.2829 Foxes and bobcats.

Rule 29. (1) Not more than 2 compatible foxes or 2 compatible bobcats and their offspring of the year shall be held in 1 pen. A pen shall be enclosed completely.

(2) The floor of a pen shall be of concrete 4 inches thick, or raised 14-gauge fur-farm netting with hexagonal mesh 1 inch in diameter, or 14-gauge welded steel fabric with mesh 1 inch by 2 inches.

(3) A pen with a concrete floor shall provide 144 square feet for 1 animal and 36 square feet for each additional animal. A raised floor shall provide 100 square feet for 1 animal and 36 square feet for each additional animal.

(4) The walls of a pen shall be of 14-gauge, either hexagonal mesh no greater than 1½ inches in diameter, or 14-gauge welded steel fabric with mesh 1 inch by 2 inches. A wall shall be 6 feet high for foxes and 8 feet for bobcats.

(5) The top of a pen shall be of 14-gauge fur-farm netting or similar material with mesh 1½ inches in diameter. When natural shade is not available at all times of the day, shade shall be provided by covering ¼ of the screened top with exterior grade plywood, fiber glass, metal sheeting or similar durable material.

(6) A den constructed of wood planking shall be provided for a bobcat and a similar wooden or cement block den box for a fox. One den box 2 feet high by 2 feet wide by 3 feet long shall be made available for each animal, or 1 box 2 feet high by 3 feet wide by 3 feet long for 2 animals. The top and floor of each den box shall be constructed of cement or from 2-inch thick treated planking covered with exterior grade plywood. The entrance shall be 1½ feet high and 1½ feet wide. A den box for bobcats shall be placed near the top of the pen. The top of the den shall serve as an outdoor loafing deck for foxes.

(7) An elevated wooden loafing platform shall be provided for bobcats. A heavy tree limb (6 inches in diameter), an old auto tire or wooden exercise bar (6 inches in diameter) shall also be provided for bobcats.

History: 1954 ACS 73, p. 13, Eff. Oct. 12, 1972.

R 299.2830 Baboons and other small primates.

Rule 30. (1) Any number of compatible adults of the same species of small primates, including, but not limited to, spider monkeys, squirrel monkeys, rhesus monkeys, stub-tailed monkeys, and lemurs, and their offspring, may be held in 1 pen. A pen shall be completely enclosed, including a top.

(2) The floor of a pen shall be of concrete 4 inches thick or treated wooden planking covered with heavy-duty exterior grade plywood.

(3) A pen shall provide 144 square feet for 1 baboon, rhesus monkey, spider monkey, or stub-tailed monkey and 36 square feet for each additional animal. A pen shall provide 36 square feet for 1 squirrel monkey or 1 lemur, and 20 square feet for each additional animal. For other species of primates, floor space shall be correlated with the size of the species, the larger the animal the more space required. Special pen specifications may be requested for unlisted small primates.

(4) The walls and top of a pen shall be of the same material. They shall be of 11-gauge chain link fence with 1½-inch mesh or similar fencing material for rhesus monkeys, spider monkeys, stub-tailed monkeys, baboons, or primates of similar size. They shall be of 14-gauge hexagonal mesh 1½ inches in diameter, or welded steel fabric with rectangular mesh 1 inch by 2 inches or similar material for squirrel monkeys, lemurs and primates of similar small size. The framework shall be of 2-inch galvanized pipe or cedar posts with tops measuring 4 inches in diameter. Uprights shall be spaced 4 feet apart and set in 3 feet of concrete. Shade shall be provided by covering ¼ of the top with exterior grade plywood, fiber

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glass, or similar durable material if some natural shade is not available at all times of the day. A wall shall be 10 feet high for all primates listed in this rule.

(5) An exterior grade plywood den box 2 feet high by 2 feet wide by 3 feet long shall be provided for each animal, or 1 box 2 feet high by 3 feet wide by 3 feet long for 2 animals. The floor of the den box shall be constructed from 2-inch thick treated planking or other durable material. The entrance shall be 1½ feet high and 1½ feet wide. A wooden den box shall be placed near the top of the pen.

(6) Perches and raised platforms shall be provided for all primates listed in this rule. Tree limbs, an old auto tire, or wooden bars of appropriate diameter will suffice.

History: 1954 ACS 73, p. 24, Eff. Oct. 12, 1972.

R 299.2831 Beavers and otters.

Rule 31. (1) Not more than 2 compatible adults of the same species of beavers and otters and their immature offspring of the year shall be held together in 1 pen.

(2) The pen floor shall be constructed of concrete 4 inches thick with a built-in trough, 2 feet high by 4 feet wide by 6 feet long, with top of the trough at floor level.

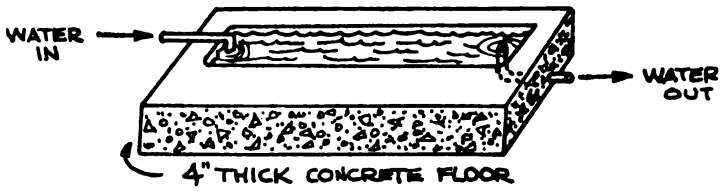
(3) A pen shall provide 144 square feet for 1 animal and 200 square feet for 2 animals.

(4) A pen wall shall be of 9-gauge chain link fence or welded steel fabric or fence or netting of equivalent strength, with mesh no greater than 2 inches by 4 inches. A wall shall be not less than 6 feet high.

(5) A weatherproof wooden or cement block den 2 feet high by 3 feet wide by 3 feet long shall be provided for each animal, or 1 box 3 feet high by 3 feet wide by 4 feet long for 2 animals. The floor and top of the den box shall be constructed from 2-inch treated planking covered with exterior grade plywood or similar material. The den shall have adequate ventilation to prevent moisture condensation in winter. The entrance shall be 1½ feet high and 1½ feet wide.

(6) The top of a pen shall be of the same material as used for the walls. However, a top is not required when sheet metal or similar material is attached to the top of the fence to prevent animals from climbing out of the enclosure.

(7) Running water shall fill the trough at all times, with inlet pipe at the top of the trough at 1 end and with outlet opening of drain pipe at opposite end from the inlet. The outlet shall be constructed in a manner which will allow complete drainage to facilitate cleaning trough. See following diagram:



Water Trough
(2′ Deep x 4′ Wide x 6′ Long)

History: 1954 ACS 73, p. 14, Eff. Oct. 12, 1972.

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R 299.2832 Rabbits and hares.

Rule 32. (1) Only 1 adult of the same species of rabbit or 1 female and her offspring of the year shall be held in 1 pen.

(2) The floor of a pen shall be of dirt or concrete 4 inches thick; or raised 19-gauge galvanized hardware cloth with mesh ⅝-inch in diameter, or 16-gauge fur-farm netting with mesh 1 inch in diameter.

(3) A pen shall provide 20 square feet for 1 animal and 12 square feet for each additional animal. A raised floor shall provide 20 square feet for 1 animal and 8 square feet for each additional animal.

(4) The walls of a pen shall be of 18-gauge fur-farm netting with mesh 1 inch in diameter. In the case of a dirt floor, 1½ feet of the bottom portion of the netting used for walls shall be buried to prevent animals from escaping. The walls shall be 4 feet high from ground level.

(5) The top of a pen shall be of the same material as for the walls. However, a top is not required when sheet metal 2 feet wide or similar material is extended down from the top and inside the fence as a barrier to prevent animals from climbing out of the enclosure.

(6) A weatherproof wooden den box, 1 foot high by 1½ feet wide by 2 feet long shall be provided for each animal, or 1 box 1½ feet high by 2 feet wide by 3 feet long for 2 animals. The floor of the box shall be constructed of 2-inch thick treated planking.

History: 1954 ACS 73, p. 15, Eff. Oct. 12, 1972.

R 299.2833 Prairie dogs.

Rule 33. (1) Any number of compatible adult prairie dogs and their young may be held in 1 pen.

(2) The floor of a pen shall be of concrete, 4 inches thick, or 9-gauge non-rusting woven wire or galvanized hardware cloth or similar non-rusting material with mesh 1 inch in diameter. Reinforcement rods are recommended for the outer edge of a concrete floor to help support concrete or cement block walls. Six-inch tile floor drains shall be installed in the concrete floor at the rate of 1 per 16 square feet to facilitate drainage. Aluminum wire mesh, galvanized hardware cloth, or other suitable non-rusting material with mesh no greater than 1 inch in diameter shall be used as covers for floor drains to prevent animals from escaping. Floor drains are not required when non-rusting woven wire is used for entire floor. The floor shall be 6 feet below ground level.

(3) A pen shall provide 100 square feet for 2 adults and their offspring and 16 square feet for each additional animal.

(4) The walls of a pen shall be of 4-inch cement blocks with appropriate cement footings; or 4-inch poured concrete; or 9-gauge non-rusting woven wire or galvanized hardware cloth or similar non-rusting material with 1-inch mesh attached to a framework of steel or cedar posts for the wall below ground level. Above ground level the wall shall be of 18-gauge fur-farm netting or similar durable material with mesh 1 inch in diameter. A top consisting of fur-farm netting or an escape barrier shall be installed by extending sheet metal 1½ feet down from the top and inside the fence. Each of the 4 walls shall be 10 feet from the floor to the top of the exposed wire fence (above ground level) and shall consist of 6 feet of concrete, masonry hardware cloth or other similar material wall below ground level, and 4 feet of exposed fence of 18-gauge fur-farm netting or similar durable material with mesh 1 inch in diameter.

(5) A piece of 4-foot by 4-foot exterior grade plywood, sheet metal, fiber glass or similar durable material shall be placed on legs of galvanized pipe, cedar posts

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or cement blocks to provide shade for a family of prairie dogs. The plywood shall be 2 to 3 feet above the ground level.

(6) A pen for a family of prairie dogs shall be constructed on a site having good drainage and with a low water table to prevent burrows from being flooded. A minimum area 12 feet by 12 feet shall be excavated to a depth of 6 feet in sandy soil. In clay soil the excavation shall be 8 or more feet in depth to allow for the addition of 2 feet of sand or gravel to facilitate drainage. After excavation and addition of sand or gravel where needed, the bottom of the pit shall be covered with a concrete floor 4 inches thick or with 9-gauge non-rusting woven wire or galvanized hardware cloth or similar non-rusting material with mesh 1 inch in diameter. The outer edge of a cement floor shall be strengthened with metal reinforcement rods. One 6-inch drain hole shall be provided per 16 square feet of cement floor space. A drain opening shall be covered with galvanized or aluminum netting or other similar material to insure good drainage and to prevent animals from escaping.

(7) Cement block walls 4 inches wide shall be erected along the 4 outer edges of the cement floor or on appropriate cement footings when the main floor consists of woven wire or other non-rusting material. Poured concrete or 9-gauge non-rusting woven wire may be used in place of cement blocks. Walls shall be extended to ground level. After construction of walls below ground level, the entire enclosure shall be filled with sandy loam soil.

(8) A wire fence, 4 feet high, shall be constructed on top of the underground wall, using 18-gauge fur-farm netting or similar material with mesh 1 inch in diameter. Sheet metal or similar material shall extend downward from the top, and inside of the fence as a barrier to prevent animals from escaping.

History: 1954 ACS 73, p. 15, Eff. Oct. 12, 1972.

R 299.2834 Tree squirrels, ground squirrels, and chipmunks.

Rule 34. (1) Not more than 1 compatible pair of tree squirrels, ground squirrels (gophers) or chipmunks and their offspring of the year shall be held in 1 pen. A pen shall be enclosed completely, including a top.

(2) The floor of a pen shall be of concrete 4 inches thick, or a raised floor consisting of 18-gauge fur-farm netting, with mesh 1 inch in diameter for larger species and ¾-inch in diameter for smaller species.

(3) A concrete floor shall provide 36 square feet for 1 tree squirrel and 12 square feet for each additional animal. A raised floor shall provide 36 square feet for 1 tree squirrel and 12 square feet for each additional animal; 20 square feet for 1 ground squirrel or chipmunk and 8 square feet for each additional animal.

(4) The walls of a pen shall be of 18-gauge fur-farm netting or similar material with mesh 1 inch in diameter for tree squirrels, and 19-gauge hardware cloth with mesh ⅝-inch in diameter for ground squirrels or chipmunks. A wall shall be 7 feet high for tree squirrels and 4 feet high for ground squirrels and chipmunks.

(5) The top of a pen shall be of the same material as for the walls. When natural shade is not available, ¼ of the top shall be covered with exterior grade plywood, metal sheeting, or other durable material to provide artificial shade. A top is not required when a pen is designed and constructed in a manner which makes it impossible for animals to escape.

(6) A weatherproof wooden den box, 2 feet high by 1 foot wide by 1 foot long, shall be provided for 1 pair of animals. A den box opening for tree squirrels shall be 3½ inches in diameter, the center of which shall be 6 inches from the top. A den box for chipmunks or ground squirrels shall have an entrance 2¼ inches in diameter. A den box shall be placed near the top of a pen for tree squirrels and on

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the pen floor for ground squirrels and chipmunks. A perch made from tree limbs or a wooden bar 3 to 6 inches in diameter shall be provided for squirrels. An exercise wheel shall be provided for each pen.

History: 1954 ACS 73, p. 16, Eff. Oct. 12, 1972.

R 299.2835 Other small mammals.

Rule 35. (1) Any number of compatible animals of the same species of badgers, mink, muskrats, opossums, porcupines, raccoons, skunks, weasels, civet cats, peccaries, armadillos, woodchucks, martens, fishers, ringtail cats, coatimundi, and kinkajous may be held in the same pen, depending on the social behavior of the species involved. Weasels, mink, opossums, and some other animals usually do not tolerate each other except during their mating seasons. The pen shall be enclosed completely, except when noted otherwise.

(2) The floor of a pen shall be of concrete 4 inches thick, or raised 16-gauge fur-farm netting with mesh 1 inch in diameter.

(3) A pen shall provide 64 square feet for 1 animal and 12 square feet for each additional animal. A raised floor shall provide 36 square feet for 1 animal and 12 square feet for each additional animal.

(4) The walls of a pen shall be of 16-gauge fur-farm netting with mesh 1½ inches in diameter or similar material, except that the mesh used for a mink or weasel pen shall be ¾-inch. The wall shall be 6 feet high for tree-climbing animals, 4 feet high for muskrats, mink, and other non-climbing animals.

(5) The top of a pen shall be of the same material as for walls. A top is not needed when sheet metal 2 feet wide or similar material is attached to the top of the fence to prevent animals from climbing out of their enclosure.

(6) A weatherproof wooden or cement block den box shall be of appropriate size to accommodate the size of the animal. The floor of the den box shall be constructed of cement covered with heavy-duty exterior grade plywood or 2-inch thick treated planking. A den box shall be placed on a pen floor, except for tree-climbing animals.

(7) Tree limbs or wooden rods of appropriate diameter shall be made available to tree-climbing animals.

History: 1954 ACS 73, p. 17, Eff. Oct. 12, 1972.

R 299.2836 Waterfowl.

Rule 36. (1) Any number of compatible ducks and geese and their offspring may be held in 1 pen.

(2) The floor of a pen shall be of dirt with good drainage or 4-inch concrete.

(3) A pen shall provide 64 square feet of land, excluding pond area, for 1 duck and 24 square feet for each additional duck. A grazing area of 1,600 square feet shall be provided for 1 goose and 800 square feet for each additional goose.

(4) The walls of a pen shall be 4 feet high for pinioned birds and 6 feet high for non-pinioned birds, and shall be of 18-gauge galvanized wire mesh. From ground level to 2 feet above ground level, the fence shall be of 1-inch galvanized wire mesh. Steel fence posts, cedar posts with 4-inch tops, or posts of similar strength shall form the framework for the waterfowl pen. The posts shall be set 2½ feet in the ground and spaced not more than 10 feet apart.

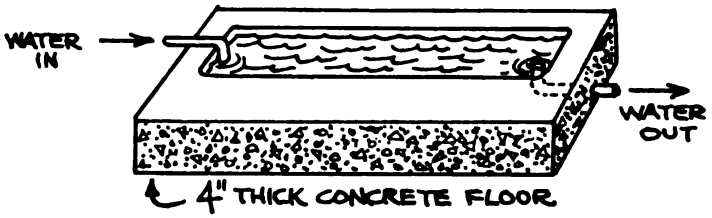
(5) A top for a pen is not required for pinioned waterfowl. For non-pinioned waterfowl, the top shall be of 18-gauge galvanized wire with 2-inch mesh. Adequate support shall be provided to prevent snow and ice from damaging the pen.

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(6) A waterproof shelter with roof and 3 walls and floor space of 4 square feet per bird shall be provided in a pen, or a lean-to furnishing equivalent space and protection. The floor of the shelter shall provide good drainage.

(7) Adequate protection and provisions shall be provided for waterfowl during winter months as required by the inspecting conservation officer who may require placing ducks and geese in a building.

(8) Where a natural or man-made pond is not available, an artificial pond as hereafter shown shall be constructed for 1 pair of ducks or 1 pair of swans and their offspring. The artificial pond shall have running water at all times. The inlet pipe shall be not less than 2 inches from the top of the trough at 1 end. The outlet shall be at the opposite end. The outlet shall be constructed in a manner which will allow for complete drainage to facilitate cleaning of the pond. See following drawing:



(9) An artificial pond shall be:

(a) For dabbling (puddle) ducks, 2 feet deep by 4 feet wide by 8 feet long.

(b) For diving ducks, 4 feet deep by 4 feet wide by 8 feet long.

(c) For swans, 3 feet deep by 4 feet wide by 8 feet long.

History: 1954 ACS 73, p. 17, Eff. Oct. 12, 1972.

R 299.2837 Hawks, eagles, owls, crows, doves, macaws, and parrots.

Rule 37. (1) With the exception of crows, doves (pigeons), macaws, and the lesser parrots, not more than 1 bird shall be held in a pen. One pair of crows and their offspring of the year may be held in 1 pen. Any number of doves or macaws or lesser parrots may be held in 1 pen.

(2) The floor of a pen shall be of 4-inch concrete or dirt with good drainage.

(3) A pen shall provide 64 square feet per bird, 100 square feet for 2 birds and 12 square feet for each additional bird.

(4) The walls of a pen shall be of 18-gauge, galvanized, 1-inch mesh for the first 2 feet above ground level. The next 6 feet shall be 18-gauge, 1½-inch mesh. The walls shall be 8 feet high.

(5) The top of a pen shall be of 18-gauge, 2-inch galvanized mesh.

(6) One-half of a pen's top shall be covered with exterior grade plywood, fiber glass, metal sheeting, or other durable waterproof material to provide shade and protection from inclement weather. Each owl, hawk, crow, macaw, and parrot shall have access to a 2½ feet high by 2 feet wide by 2 feet long wooden shelter with top, bottom and 3 sides enclosed. The shelters shall be placed under the covered portion of the pen's top.

(7) All birds shall be provided with an adequate number of perches made from wooden rods or tree limbs of appropriate diameter, depending on the size of the birds.

History: 1954 ACS 73, p. 18, Eff. Oct. 12, 1972.

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R 299.2838 Pheasants, wild turkeys, grouse, jungle fowl, shore birds, partridges, and quail.

Rule 38. (1) Any number of compatible adult pheasants, wild turkeys, grouse, jungle fowl, shore birds, partridges, or quail and their offspring may be held in 1 pen.

(2) A pen shall provide 64 square feet of dirt floor or cement floor for 1 bird and 12 square feet for each additional bird.

(3) Pen walls shall be of 18-gauge, galvanized fencing material with 1-inch mesh from ground level to 2 feet thereabove. The remainder of the fence shall consist of 18-gauge, galvanized fencing with 2-inch mesh. Walls shall be 6 feet high.

(4) The top of a pen shall be of 18-gauge, galvanized fencing with 2-inch mesh for non-pinioned birds. A top is not required for pens with pinioned birds.

(5) A waterproof shelter with roof and 3 walls providing 4 square feet of shelter area shall be provided per bird, or a lean-to furnishing equivalent space and protection.

History: 1954 ACS 73, p. 18, Eff. Oct. 12, 1972.

R 299.2839 Ostriches, rheas, emus, and cassowaries.

Rule 39. (1) Any number of compatible ostriches, rheas, emus, or cassowaries may be held in 1 pen, but all birds shall be of the same species.

(2) The floor of the outdoor pen shall consist of dirt with good drainage.

(3) Each bird shall be provided with 1,000 square feet of floor space and 1,000 square feet for each additional bird.

(4) The walls shall be 8 feet high for ostrich pens and 6 feet high for rhea, emu and cassowary pens.

(5) The framework of the pen shall consist of heavy-duty steel posts or cedar posts or other wooden posts treated with a wood preservative. The maximum spacing between posts shall not exceed 12 feet.

(6) Fencing for ostrich pens shall consist of 9-gauge chain link fence with mesh 2 inches in diameter or similar material. Fencing for rhea, emu, and cassowary pens shall consist of 11-gauge chain link fence with mesh 2 inches in diameter or similar material.

(7) An outdoor weatherproof shelter, consisting of a roof and 3 walls and 40 square feet of floor space per bird shall be provided for spring, summer and fall use.

(8) A completely enclosed, heated, and weatherproof building shall be provided for the birds during periods when the outdoor temperature drops below 55 degrees. Temperatures in the building shall not be allowed to fall below 55 degrees.

History: 1954 ACS 73, p. 19, Eff. Oct. 12, 1972.

PART 4. PERMITTEES' OPERATIONS

R 299.2851 Distance from highway or street.

Rule 51. A public exhibition or part thereof shall not be closer than 100 feet to the center line of the nearest highway lane, road, or street, except when a species of animal is kept in a range field consisting of 3 or more acres or under unusual situations approved by the inspecting conservation officer and the director.

History: 1954 ACS 73, p. 19, Eff. Oct. 12, 1972.

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R 299.2852 Parking.

Rule 52. A permittee for a public exhibition adjacent to a highway, road, or street shall furnish suitable parking space for automobiles driven by the public unless otherwise approved by an inspecting officer.

History: 1954 ACS 73, p. 19, Eff. Oct. 12, 1972.

R 299.2853 Identifying labels.

Rule 53. A permittee shall attach to each pen a sign, with letters at least 2 inches high, which gives the appropriate common names of the animals therein.

History: 1954 ACS 73, p. 19, Eff. Oct. 12, 1972.

R 299.2854 Disease, parasites, and unusual behavior.

Rule 54. (1) A permittee shall provide adequate facilities and sanitation for the health and well being of exhibited animals; shall keep them reasonably free from parasites; and shall remove sick, injured, deformed, and otherwise incapacitated animals from the exhibit area.

(2) A permittee shall recognize and evaluate unusual physical attributes and behavior patterns of individual animals and take appropriate measures to protect the health, safety, and welfare of other animals and the visiting public. This may involve construction of stronger and larger pen facilities or removal of an animal from a pen or the exhibit area.

(3) Domestic and wild animals not listed under R 299.2811 and R 299.2812 shall not be displayed in a manner that poses a threat to the health and welfare of the wild mammals and wild birds being held under an exhibition permit, of the visiting public or the permittee or his employees.

(4) A permittee shall obtain the services of a veterinarian when, in the opinion of the inspecting conservation officer, any animal held in an area covered by an exhibition permit requires such service. The expense for such service shall be assumed by the permittee.

(5) The inspecting officer may require a permittee to submit a veterinarian's report concerning the health and welfare of any animal on exhibit.

(6) A permittee is responsible for the safety of persons authorized to be on the licensed premises.

History: 1954 ACS 73, p. 19, Eff. Oct. 12, 1972.

R 299.2855 Sanitation.

Rule 55. (1) A permittee shall clean all pens daily, or more often if necessary. Spilled food, excrement or other offensive material shall be removed or flushed from pens regularly with running water when necessary. The pens and range fields shall be sanitary, attractive and free of offensive odors at all times.

(2) A permittee shall provide animals, native to regions having warm climates, with adequately heated facilities during periods of low temperatures.

(3) A permittee shall remove paper, cartons, tin cans, bottles, garbage of any kind, animal excrement, or other debris from within 100 feet of any pen, unless the waste material is contained in a suitable covered garbage container. The contents shall be emptied and taken away daily.

(4) A permittee shall provide dens which are accessible with clean litter for insulation and comfort purposes.

History: 1954 ACS 73, p. 19, Eff. Oct. 12, 1972.

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R 299.2856 Physical contact between animals and public.

Rule 56. (1) A permittee holding animals listed in R 299.2811 or R 299.2812 for public exhibition shall display the animals in such a manner as to insure that there shall be no physical contact between public spectators and the animals. This may be accomplished by construction of guard fences, guard rails, moats, or other structures approved in each individual case by the inspecting officer.

(2) A permittee shall not allow any other person, except his bona fide employee, veterinarian, conservation officer, humane officer, or other commissioned officer to enter, at any time, a pen in which wild animals are held under his permit.

History: 1954 ACS 73, p. 20, Eff. Oct. 12, 1972.

R 299.2857 Wildlife park.

Rule 57. (1) A detailed plan of a wildlife park shall be made available and approved by the director prior to the construction and establishment of a wildlife park. A public hearing shall be conducted prior to the issuance of a permit.

(2) Boundary fences, compartment fences and gates, moats, pits, and other artificial or natural barriers shall meet department specifications. In some instances 2 parallel boundary fences may be required.

(3) Maximum concentration of compatible wild animals in each range field of a wildlife park shall be established by the department and shall be limited to such species which cannot escape by climbing over or digging under boundary or range field fences. Changes in concentration of animals may be warranted from time to time, depending on the physical condition of the captive animals, degree of soil erosion and water pollution, public safety and general appearance of the vegetation and physical features of the land.

(4) All range fields of a wildlife park shall be patrolled by qualified personnel to insure safety of the visitors, employees, and wild animals. Personnel shall be provided with any necessary training, equipment, and facilities to insure such safety. Personnel shall be informed about animal behavior and the life histories of the animals on display in the park.

(5) A permittee operating a wildlife park shall provide the following:

(a) Appropriate summer and winter shelters if appropriate natural shelter is lacking. Some wild animals may require the protection of a building or artificial heat or both in winter. The shelters and winter quarters shall be dry and of suitable size to prevent overcrowding.

(b) Daily fence checks to make certain the fences are in good condition.

(c) Daily range field inspections to insure humane and sanitary conditions for captive animals.

(d) Sanitary dispensing and storage facilities for wholesome food and clean water. Perishable food shall be kept under appropriate refrigeration.

(e) Well maintained trails, roads, or facilities and equipment used in transporting people.

(f) Appropriate vehicle speed limits.

(g) Appropriate turnoffs along trails for picture taking.

(6) A permittee operating a wildlife park shall prohibit the following:

(a) Visitors from entering the park with domestic or wild animals.

(b) Visitors from making physical contact with wild animals listed in these rules.

(7) A permittee operating a drive-through wildlife park shall prohibit the following:

(a) Open windows on vehicles in range field except when the permittee

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provides metal screen inserts of appropriate strength to protect driver and passengers.

(b) Cars classed as convertible and other vehicles which offer little protection to the occupants from entering the drive-through wildlife park.

(c) Visitors from leaving car except as directed by the permittee or his qualified employees in emergency situations.

(8) A permittee operating a drive-through wildlife park shall make available printed copies of safety rules listed in subrules (6) and (7), the vehicle speed limit and other safety precautions which he deems important to the driver of each vehicle before the visitor and his passengers are permitted to enter the park.

History: 1954 ACS 73, p. 20, Eff. Oct. 12, 1972; 1954 ACS 81, p. 28, Eff. Nov. 14, 1974.

R 299.2858 Food and water.

Rule 58. (1) It is unlawful for a person to provide food or water to animals, except such natural food which is normally eaten by each species or commercially prepared food for each species, and water according to subrule (4).

(2) The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain the animals for whom it is provided in good health. The diet shall be prepared according to the age, species, condition, size and type of the animals. Animals shall be fed at least once a day, except as dictated by hibernation, veterinary treatment, normal fasts, or other professional practices.

(3) Food, and food receptacles if used, shall be sufficient in quantity and located to assure accessibility to all animals in an enclosure and placed to minimize contamination. Food receptacles shall be sanitary. If self-feeders are used, adequate measures shall be taken to prevent moulding, contamination, and deterioration or caking of the food.

(4) If potable water is not accessible to the animals at all times, it shall be provided as often as necessary for the health and comfort of the animals. Frequency of watering shall relate to the age, species, condition, size, and type of the animals. Water receptacles shall be sanitary.

History: 1954 ACS 73, p. 20, Eff. Oct. 12, 1972.

R 299.2859 Harassment.

Rule 59. A permittee shall not place animals under stress or allow the general public or his employees to harass an animal held captive on the licensed premises.

History: 1954 ACS 73, p. 20, Eff. Oct. 12, 1972.

R 299.2860 Inspection.

Rule 60. A department officer may inspect the operation at any reasonable time and the permittee shall make available for inspection all animals, pens, and other enclosures covered by his permit. Unsatisfactory conditions shall be documented in writing by the inspecting officer. A copy of the report shall be furnished the permittee and the director.

History: 1954 ACS 73, p. 21, Eff. Oct. 12, 1972.

MUNICIPAL WASTEWATER DIVISION

GENERAL RULES

(By authority conferred on the department of natural resources by sections 3 and 6 of Act No. 98 of the Public Acts of 1913, as amended, section 33 of Act No. 306

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of the Public Acts of 1969, as amended, and Executive Reorganization Order Nos. 1973-2 and 1973-2a, being §§325.203, 325.206, 24.233, and 299.111 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 299.2901 Purpose.

Rule 1. These rules are promulgated for the purpose of implementing the provisions of the act.

History: 1954 ACS 85, p. 13, Eff. Sept. 24, 1975.

R 299.2903 Definitions.

Rule 3. (1) "Act" means Act No. 98 of the Public Acts of 1913, as amended, being §§325.201 to 325.214 of the Michigan Compiled Laws.

(2) "Board" means the board of examiners established by R 299.2916.

(3) "Department" means the department of natural resources.

(4) "Division" means the municipal wastewater division of the department.

(5) "Governmental agency" means and shall include a city, village, township, county, metropolitan district, or other unit of government, or the officers thereof.

(6) "Operator" means an individual who works in a treatment facility and who has some responsibility for the operation thereof.

(7) "Person" means an individual, partnership, association, corporation, or any governmental agency.

(8) "Sewer system" means and shall include pipes and structures, including pipes, channels, conduits, manholes, pumping stations, and appurtenances, collectively or severally, actually used or intended for use by the public for the purpose of collecting, conveying, or transporting domestic and industrial wastes to a treatment facility.

(9) "Sewerage system" means and shall include sewer systems and treatment facilities required to collect, transport, and treat domestic and industrial wastes.

(10) "Superintendent" means an individual in charge of and responsible for the operation of a treatment facility and in whom is vested the authority and responsibility for the establishment and execution of the specific practices and procedures controlling the operations of the treatment facility in accordance with the policies of the owner of the facility and the department.

(11) "Treatment facility" means and shall include sewage or waste treatment works, structures, equipment, and appurtenances, collectively or severally, actually used or intended for use by the public for the purpose of treatment or otherwise handling domestic and industrial wastes.

History: 1954 ACS 85, p. 13, Eff. Sept. 24, 1975.

R 299.2905 Rescission.

Rule 5. The following rules are rescinded:

(a) The rule pertaining to issuance of construction permits, being R 325.461 of the Michigan Administrative Code and appearing on page 2260 of the 1954 volume of the Code.

(b) Rules 1 to 8, being R 325.1121 to R 325.1128 of the Michigan Administrative Code and appearing on pages 2327 to 2330 of the 1954 volume of the Code.

History: 1954 ACS 85, p. 13, Eff. Sept. 24, 1975.

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PART 2. TREATMENT FACILITY CLASSIFICATION AND OPERATOR CERTIFICATION

R 299.2911 Treatment facility classification.

Rule 11. (1) Treatment facilities shall be classified by the director of the department into 4 classes, designated as class A, B, C, and D. The classifications shall be based on population served, the type of treatment facility, the character and volume of wastes to be treated, and the use and nature of the waters of the state receiving the effluent thereof. Treatment facilities in any size group may be placed in a higher classification by the director, by reason of the incorporation in the treatment facility of special features of design, or characteristics more difficult to operate than usual, or by reasons of a particularly difficult type of sewage or by reason of particular stream conditions or combinations thereof.

(2) A special classification may be designated for all treatment facilities utilizing the waste stabilization lagoon process and which do not include special mechanical devices such as aerators, chemical precipitation, disinfection, or other factors.

(3) One of the following classifications shall be assigned to each treatment facility which serves the public:

(a) Class A, treatment facilities serving or designed to serve a population in excess of 50,000 persons.

(b) Class B, treatment facilities serving or designed to serve a population between 10,000 and 50,000 persons.

(c) Class C, treatment facilities serving or designed to serve a population between 2,000 and 10,000 persons.

(d) Class D, treatment facilities serving or designed to serve a population of less than 2,000 persons.

(e) Class L, treatment facilities utilizing the waste stabilization lagoon process.

History: 1954 ACS 85, p. 14, Eff. Sept. 24, 1975.

R 299.2912 Treatment facility classification changes.

Rule 12. (1) When the director determines that 1 or more of the conditions described by subrule (2) exist or are imminent, he may change the classification of a treatment facility after notice and opportunity for hearing on his proposed action at least 60 days prior to the classification change. Hearings conducted pursuant to this subrule shall be undertaken according to hearing procedures prescribed by part 5.

(2) The director may make a classification change of a treatment facility upon his finding that any of the following or any combination is occurring or may be expected to occur within 60 days:

(a) The population being served by the treatment facility has changed.

(b) There has been incorporated within the treatment facility special features of design or characteristics which render the treatment facility more difficult to operate.

(c) Certain wastes are being treated within the treatment facility which require special treatment facility design or operation procedures.

(d) Conditions of flow or use of the receiving waters require an unusually high degree of treatment facility operational control.

History: 1954 ACS 85, p. 14, Eff. Sept. 24, 1975.

R 299.2916 Board of examiners; appointments.

Rule 16. The director shall appoint a board of examiners which shall consist of 5 members, of whom 1 shall be a class A certified operator of a treatment facility, 1 shall be a qualified engineer registered in the state knowledgeable in the

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operation and maintenance of treatment works, 1 shall be a staff member of the division, 1 shall be a municipal official, and 1 shall be a member at large. Of the members first appointed, 1 shall be appointed for a term of 1 year, 2 for terms of 2 years, and 2 for terms of 3 years. After the initial appointments, each member shall be appointed for a term of 3 years. Vacancies on the board shall be appointed in the same manner as original appointments.

History: 1954 ACS 85, p. 14, Eff. Sept. 24, 1975.

R 299.2917 Board of examiners; duties and responsibilities.

Rule 17. (1) The board shall meet at least twice each year at such times and places as it may designate. It shall examine all persons making application for certification who meet the minimum requirements prescribed by R 299.2918. The board shall schedule at least 1 examination per year and shall make public the date for examinations at least 90 days prior to the date set for examination.

(2) As a result of the examination and application, the board shall recommend to the director the issuance or nonissuance of an operator certificate in the proper classification to the applicant.

(3) Members of the board shall not be compensated, but shall be entitled to all actual and necessary expenses in the performance of their official duties according to the rates established by the latest edition of the standard travel regulations of the state.

History: 1954 ACS 85, p. 14, Eff. Sept. 24, 1975.

R 299.2918 Operator certification; minimum requirements.

Rule 18. (1) Certification shall require written examination conducted by the board according to 1 or more of the following classifications based upon minimum education and experience qualifications and successful fulfillment of the requirements of each lower certification level:

(a) Class A. A college degree with sufficient engineering or allied subjects to understand the mechanics, electronics, and hydraulics of a complex treatment facility and 4 years of acceptable operation experience in a class B or higher treatment facility, 2 years of which shall have been in a supervisory position or a position of major operational responsibility; or completion of 2 years of a standard college curriculum in engineering or allied field with sufficient subjects to understand the mechanics, electronics, and hydraulics of a complex treatment facility and 6 years of acceptable operation experience in a class B or higher treatment facility, 2 years of which shall have been in a supervisory position or a position of major operational responsibility.

(b) Class B. Completion of 1 year of college or its equivalent with sufficient subjects to aid in the understanding of the mechanics, electronics, and hydraulics of a treatment facility, and 4 years of experience of acceptable operation in a treatment facility of class C or higher, 2 years of which shall have been in a supervisory position or a position of major operational responsibility.

(c) Class C. Completion of high school or its equivalent and 2 years of experience of acceptable operation in a treatment facility.

(d) Class D. Completion of high school or its equivalent and 1 year of experience of acceptable operation in a treatment facility.

(e) Class L. Completion of high school or its equivalent and 1 year of experience in the operation of a waste stabilization lagoon system.

(2) Additional education or experience of an applicant may be substituted by the board for meeting the minimum qualifications prescribed in subrule (1).

History: 1954 ACS 85, p. 15, Eff. Sept. 24, 1975.

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R 299.2920 Application for examination.

Rule 20. (1) An individual desiring to be certified and classified for operation of a treatment facility shall file with the department, at least 45 days before an examination date announced by the board, an application for examination and certification on a form prepared and provided by the department. The information contained on the application shall be evaluated by the board and shall constitute a part of the examination.

(2) The board shall notify the applicants of their acceptance for examination and the time and place of the examination at least 30 days before the date of examination. If an applicant has submitted more than 1 application, the board shall attempt to schedule examinations for that applicant as conveniently as possible for the applicant.

History: 1954 ACS 85, p. 15, Eff. Sept. 24, 1975.

R 299.2922 Examination procedures.

Rule 22. (1) Examinations for operator certification shall be prepared by the board or by others designated by the board, and shall include, but not be limited to, the following 4 parts:

(a) An evaluation of the educational qualifications of the applicant.

(b) An evaluation of the experience qualifications of the applicant.

(c) An evaluation of the personal characteristics of the applicant.

(d) A written appraisal of the general subject of treatment facility operation in any or all of its phases.

(2) An applicant shall not be admitted to the written examination unless he meets the minimum requirements prescribed in R 299.2918.

(3) Separate examinations for each class shall be prepared by the board to encompass basic differences in the duties and responsibilities of operators, types of treatment facilities, variations in wastewater quality, conditions of receiving waters, and such other factors as the board determines.

(4) Applicants previously admitted to examinations for certification under the provisions of previous rules shall not be denied admission for the same class of examination because of these rules.

History: 1954 ACS 85, p. 15, Eff. Sept. 24, 1975.

R 299.2923 Examinations; grading; recommendations and notification.

Rule 23. (1) The minimum passing grade for the written examination is 70%.

(2) Upon completion of examination, the board or others designated by it shall grade each examination promptly and, within 60 days after the date of examination, notify the director in writing of the results of each examination.

(3) At the time of notification of the director of the results of the examination, the board shall recommend to the director the issuance or nonissuance of a certificate of operator classification for each applicant. The results of the examination and the recommendation of the board shall be mailed to each applicant by the department.

(4) Applicants who fail to pass an examination may repeat the examination at any subsequent, regularly scheduled examination of the board by submitting an application as prescribed by R 299.2920.

History: 1954 ACS 85, p. 16, Eff. Sept. 24, 1975.

R 299.2924 Operator certificates; issuance.

Rule 24. (1) Within 30 days after receipt of examination results and the recommendations of the board, the director shall issue certificates to each

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applicant who has been recommended by the board for certification. The certificate shall indicate the class of operator as prescribed by R 299.2918 and the class of treatment facility in which the certified operator is entitled to be in responsible charge.

(2) An operator certificate may be issued by the director, without examination, in a comparable classification to any person who holds an operator certificate in any state, territory, or possession of the United States, or any country, if, in the judgment of the board, the requirements for certification of operators under which the person's certificate was issued are not lower than the requirements prescribed by the board and these rules.

History: 1954 ACS 85, p. 16, Eff. Sept. 24, 1975.

R 299.2926 Operator certificates; revocation and suspension.

Rule 26. The director may suspend or revoke the certificate of an operator who, after a hearing before the board, is adjudged incompetent or unable to properly perform the duties of an operator in his classification, or who has practiced fraud or falsification, or who has been negligent in the discharge of his duties or responsibilities. Notice of suspension or revocation shall be provided in writing to the operator and the owner of the treatment facility.

History: 1954 ACS 85, p. 16, Eff. Sept. 24, 1975.

R 299.2927 Appeals.

Rule 27. (1) A person who feels himself aggrieved by any action of the board or the department pursuant to these rules, or who wishes to appeal any other action of the department or the board with respect to his certification, shall have an opportunity for a hearing before the commission on natural resources or its designated representative.

(2) A hearing conducted pursuant to this rule shall be conducted in accordance with part 5.

History: 1954 ACS 85, p. 16, Eff. Sept. 24, 1975.

PART 3. SEWERAGE SYSTEM PLANS AND SPECIFICATIONS

R 299.2931 Definitions.

Rule 31. As used in this part:

(a) "Alteration" means the construction of any modification or addition to an existing sewerage system which changes the process or system capacity.

(b) "Construction" means erection or installation of sewer systems or treatment facilities, including equipment and appurtenances, in accordance with approved plans and specifications.

(c) "Permit" means a construction permit issued by the director of the department for a sewer system or treatment facility pursuant to section 6 of the act and these rules.

History: 1954 ACS 85, p. 16, Eff. Sept. 24, 1975.

R 299.2933 Submittal of plans and specifications.

Rule 33. (1) Before the construction or alteration of a sewerage system or portions thereof, plans and specifications therefor shall be submitted to the department for review and issuance of a construction permit.

(2) The plans and specifications shall be submitted by the owner of the sewer system or treatment facility or alteration thereof or by his designated agent. When a person files plans and specifications as an agent of an owner, the owner shall furnish the agent with a letter of authorization for filing the plans and specifi-

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cations, and the letter shall identify the plans or project and shall be submitted with the plans and specifications.

(3) Plans and specifications submitted to the department pursuant to subrule (1) shall not be considered adequate unless prepared by a professional engineer registered in the state, and the plans and specifications shall be properly sealed by the engineer as required by law.

(4) When the owner of the proposed sewerage system is not a governmental agency, the application for a permit shall include a resolution from the local governmental agency having jurisdiction, stating that the governmental agency shall assume responsibility for the effective and continued operation and maintenance of the proposed sewerage system if the owner in any way fails to perform in this capacity. A copy of contractual or other arrangements between the owner and the governmental agency, which provide for the continuity of service agreement, shall also be submitted.

History: 1954 ACS 85, p. 16, Eff. Sept. 24, 1975.

R 299.2935 Engineering reports; basis of design; minimum requirements.

Rule 35. (1) Before submission of plans and specifications, an engineering report or basis of design, or both, shall be submitted to the department for review and approval.

(2) An engineering report shall be required for all proposed projects dealing with construction of treatment facilities and major sewer systems. The engineer, when preparing the report, shall consider the material set forth under section 11, engineering report, of the recommended standards for sewage works, wherever applicable to the facility for which the report is being prepared.

(3) A basis of design shall be required for all proposed projects and may be included in the engineering report. Basis of design forms for treatment facilities and pump stations are available from the division office. The basis of design for sewer systems shall include, depending on applicability to the sewer system for which the basis of design is being prepared, but not necessarily be limited to, the following:

(a) A general map of the service area showing the location of the existing and proposed sewer system.

(b) The service area in acres.

(c) The present and future population densities per acre and total population.

(d) The present and future per capita sewage contribution; average and maximum.

(e) A description of commercial and industrial waste contributions.

(f) The present and design flow rates, average and maximum.

(g) The size of pipe, grade, and, where appropriate, the size of pump station, number and capacity of pumps, size and length of force main, and point of discharge.

(h) An analysis of the effect of the proposed additional flows on the existing sewerage system.

(i) A detailed explanation of steps to be taken in case of power failure or equipment breakdown, including a description of special reserve units available for emergency treatment, storage, or transportation of the wastewater.

(j) An analysis and determination as to the applicability of sections 2 and 5 of Act No. 245 of the Public Acts of 1929, as amended, being §§323.2 and 323.5 of the Michigan Compiled Laws, and Part 13 of the General Rules of the water resources commission, being R 323.1311 to R 323.1329 of the Michigan Administrative Code.

History: 1954 ACS 85, p. 17, Eff. Sept. 24, 1975.

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R 299.2936 Plans and specifications; minimum requirements.

Rule 36. Information contained within the plans and specifications submitted to the department for review and approval pursuant to R 299.2933 shall include, but not necessarily be limited to, the material recommended in section 12, plans, and section 13, specifications, of the recommended standards for sewage works.

History: 1954 ACS 85, p. 17, Eff. Sept. 24, 1975.

R 299.2938 Plans and specifications; review by department.

Rule 38. (1) Upon receipt of plans and specifications for the construction or alteration of a sewerage system or portion thereof, the department shall review them as soon as practicable to determine their completeness with regard to the minimum requirements specified in R 299.2936 and their acceptability with regard to accepted design standards for wastewater facilities in this state. In making its review, the department shall consider design criteria as set forth in recommended standards for sewage works and shall be assured that the sewerage system or portion thereof is so designed so as to protect the public health and prevent unlawful pollution.

(2) If the department determines that plans and specifications are incomplete or are inadequate, it shall notify the owner or his authorized agent of the proposed sewerage system or portion thereof, and may request the resubmittal thereof with appropriate corrections or additions. The director shall not grant an approval of plans and specifications until they are complete and are judged to be adequate by the department.

History: 1954 ACS 85, p. 17, Eff. Sept. 24, 1975.

R 299.2939 Approval of plans and specifications; permits.

Rule 39. (1) Upon the determination by the department that the plans and specifications for a sewerage system or portion thereof are complete and satisfactory, the director shall approve them and shall issue a permit for construction.

(2) A permit issued pursuant to the act and these rules expires unless construction commences within 2 years from the date of issuance. An owner of a wastewater facility may apply for reissuance of a permit in accordance with R 299.2933.

History: 1954 ACS 85, p. 18, Eff. Sept. 24, 1975.

R 299.2941 Permits; conditions for issuance.

Rule 41. A permit for the construction of a sewerage system or portions thereof shall be issued by the director of the department only when both of the following conditions are met:

(a) Proper devices are or will be available and are in satisfactory operation for the collection, transportation, and treatment, before discharge into any public watercourse, lake, drain, ditch, or groundwater, of the sewage or wastes collected or conveyed by such systems; or a definite program or agreement satisfactory to the department leading to the construction and operation of such collection, transportation, or treatment devices shall have been officially adopted by the applicant for such permit and filed in the offices of the department.

(b) Where the plans and specifications for the work for which a construction permit is requested have been properly prepared in accordance with the laws of the state, and have been submitted to the director for his examination and approval, and which have been found to be in accordance with good modern practices, and, if built according to the plans and specifications, are of such nature and design as to protect the public health and prevent unlawful pollution.

History: 1954 ACS 85, p. 18, Eff. Sept. 24, 1975.

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R 299.2942 Revisions to approved plans.

Rule 42. The director shall approve any deviations from approved plans or specifications affecting capacity, flow, or operation of units before construction of the changes. Plans and specifications so revised should be submitted, well in advance of any construction work which will be affected by the changes, to permit sufficient time for review and approval. Structural revisions or minor changes not affecting capacities, flows, or operation are permitted during construction without approval. "As built" plans clearly showing the work as constructed shall be submitted to the department at the completion of the work.

History: 1954 ACS 85, p. 18, Eff. Sept. 24, 1975.

R 299.2943 Operation during construction.

Rule 43. Wherever possible bypassing of untreated wastewater or reduction in treatment effectiveness shall be avoided during the construction of sewer system or treatment facility alterations. Prior to commencing construction of the alterations, a program for completing the work in a manner which will minimize pollutional effects on the receiving water shall be submitted to the department for review and approval.

History: 1954 ACS 85, p. 18, Eff. Sept. 24, 1975.

R 299.2945 Availability of documents.

Rule 45. Recommended standards for sewage works, prepared by the Great Lakes-upper Mississippi river board of state sanitary engineers may be inspected at the office of the division during normal working hours, and may be obtained from the Health Education Service, Post Office Box 7283, Albany, New York 12224, at a cost of $1.00.

History: 1954 ACS 85, p. 18, Eff. Sept. 24, 1975.

PART 4. OPERATION AND MAINTENANCE OF SEWERAGE SYSTEMS

R 299.2951 Purpose.

Rule 51. This part prescribes procedures and requirements for the operation and maintenance of sewerage systems to ensure continuous protection of the public health, safety, and welfare, the water resources of the state, and the fish, wildlife, and plant life associated therewith.

History: 1954 ACS 85, p. 18, Eff. Sept. 24, 1975.

R 299.2952 Operator in charge.

Rule 52. (1) An owner of a treatment facility shall designate a superintendent, who shall be a properly certified operator, to be in responsible charge of the day-to-day operation and maintenance of each treatment facility, and shall notify the division in writing of the designation, including the address and telephone number thereof. The superintendent shall hold a certificate equivalent to or higher than the classification of the treatment facility. The owner of the treatment facility may replace the superintendent with another properly certified operator at any time, and shall notify the department in writing within 10 days after the replacement.

(2) During construction of a new treatment facility and before placing the facility in operation, the owner shall employ a properly certified operator who shall be in charge when the facility is completed and placed in operation. This individual shall become fully familiar with all facilities and equipment, and shall train selected subordinate employees as appropriate both before and following facility start-up.

History: 1954 ACS 85, p. 19, Eff. Sept. 24, 1975.

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R 299.2953 Monthly operational reports.

Rule 53. The superintendent of a treatment facility shall file with the department each month or at such other intervals as the department may designate, on forms prescribed by the department, operating reports showing the effectiveness of the treatment facility operation and the quantity and quality of liquid wastes discharged into the waters of the state. When the superintendent is not available to file the report, the owner of the treatment facility may appoint a substitute acceptable to the department to file the report.

History: 1954 ACS 85, p. 19, Eff. Sept. 24, 1975.

R 299.2955 Sewerage system operation and maintenance; general requirements.

Rule 55. (1) Sewerage systems shall be operated and maintained at all times as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants.

(2) The owner of the sewerage system shall provide an adequate operating staff which is qualified to carry out the operation, maintenance, and laboratory testing functions required to insure compliance with the conditions of subrule (1).

(3) Wherever possible, maintenance of sewerage systems shall not result in degradation of effluent quality. If degradation of effluent is unavoidable, maintenance shall be programmed and scheduled during noncritical water quality periods and shall be carried out in a manner approved by the department.

(4) All reasonable measures, including, where appropriate, the provision of shut off valves adjacent to storage tanks, catchment areas, relief vessels, or entrapment dikes, shall be taken for containment of any accidental losses of concentrated solutions, acids, alkalies, salts, oils, or other polluting materials.

History: 1954 ACS 85, p. 19, Eff. Sept. 24, 1975.

R 299.2956 As-built plans and specifications.

Rule 56. The owner of the sewerage system shall obtain and maintain reproducible as-built plans and specifications which accurately describe the entire sewerage system in its current condition.

History: 1954 ACS 85, p. 19, Eff. Sept. 24, 1975.

R 299.2957 Operation and maintenance manual.

Rule 57. (1) The owner of a treatment facility shall prepare, or cause to be prepared, an operation and maintenance manual for the treatment facility which shall be used by the operator of the facility as a guide for facility operation and maintenance. The manual shall describe the function, start-up, shutdown, and periodic maintenance procedures for each unit process and item of mechanical and electrical equipment. The appropriate responses or facility adjustments to minimize the impact of emergency situations shall be described so as to facilitate rapid implementation of a correct response during emergencies. A copy of the operation and maintenance manual shall be submitted to the department for its review, approval, and filing 60 days before the date of operation.

(2) If the department determines that an operation and maintenance manual is incomplete or inadequate, it may return the manual to the owner of the treatment facility with its findings and recommendations and request modification thereof. The owner of the treatment facility shall modify and resubmit the manual to the department.

History: 1954 ACS 85, p. 19, Eff. Sept. 24, 1975.

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R 299.2959 Emergency measures; reports to department.

Rule 59. (1) If a breakdown of a sewerage system or component thereof or any emergency situation results in diversion from or by-pass of facilities necessary for the effective collection, transportation, or treatment of the wastes and in the discharge of pollutants in excess of those authorized by a discharge permit issued by the water resources commission pursuant to Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.13 of the Michigan Compiled Laws, the owner shall take all such measures as may be necessary to correct the breakdown or emergency and eliminate or reduce the discharge of excessive pollutants.

(2) The owner of a sewerage system which discharges or permits to be discharged excessive pollutants to the waters of the state as a result of a facility breakdown or emergency shall notify the division promptly. The notice shall be supplemented by a written report filed with the division within 72 hours outlining the cause, its discovery, and the corrective actions taken to minimize adverse impact to the waters of the state, to restore facilities to operative condition, and to eliminate the need for future diversion or by-pass. This rule does not supersede, rescind, or otherwise alter any other existing or future procedure, rule, or statute pertaining to pollution of the waters of the state.

History: 1954 ACS 85, p. 20, Eff. Sept. 24, 1975.

R 299.2960 Enforcement.

Rule 60. A person who violates this part is subject to the procedures and penalties prescribed by the act or any other applicable law or rules of this state.

History: 1954 ACS 85, p. 20, Eff. Sept. 24, 1975.

PART 5. HEARINGS

R 299.2971 Opportunity for hearings.

Rule 71. (1) A person who feels himself aggrieved by an action undertaken pursuant to the act or these rules may file a sworn petition with the department, setting forth the grounds and reasons for his complaint or appeal and asking for a hearing before the commission on natural resources on the matter involved. The department shall thereupon fix the time and place for the hearing and notify the petitioner thereof by certified mail. At the hearing, the petitioner and any other interested party may appear, present witnesses, and submit evidence. Following the hearing, the final decision or disposition of the case by the commission on natural resources shall be conclusive, unless reviewed pursuant to Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws in the circuit court for the county of Ingham or for the county in which the person resides.

(2) An appearance at a hearing shall be either in person, by a duly authorized agent, or by counsel.

History: 1954 ACS 85, p. 20, Eff. Sept. 24, 1975.

R 299.2972 Hearing commissioner.

Rule 72. (1) That part of a hearing in a contested case in which testimony and evidence are to be taken may be referred to a hearing commissioner who shall be designated and authorized by the commission on natural resources to preside at the hearing.

(2) The hearing commissioner shall hear the evidence and prepare a record of the proceedings and a proposal for a decision including findings of fact and conclusions of law. The record of the proceedings and proposal for decision shall

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be filed at the department offices as early as possible after completion of the hearing. A copy of the proposal for decision shall be transmitted to each member of the commission on natural resources, and shall be served by certified mail on all other parties to the proceedings.

History: 1954 ACS 85, p. 20, Eff. Sept. 24, 1975.

R 299.2973 Agency files and records; use in connection with hearings.

Rule 73. The files and records of the department which are applicable to hearings conducted pursuant to these rules, except those materials exempted by section 22 of Act No. 306 of the Public Acts of 1969, as amended, being §24.222 of the Michigan Compiled Laws, shall be available for inspection before or at hearings held by the commission on natural resources or the hearing commissioner, and the whole or a part thereof may be offered at a hearing as evidence on behalf of the department.

History: 1954 ACS 85, p. 20, Eff. Sept. 24, 1975.

R 299.2974 Commission on natural resources' hearings.

Rule 74. (1) The commission on natural resources shall provide opportunity for either party to a contested case to submit thereto such arguments, exceptions, or appeals regarding a hearing commissioner's report and proposal for decision as may be filed timely in writing by either party. To be considered by the commission, written briefs or exceptions shall be received at the office of the department in Lansing not later than 2 weeks before the date set by the commission for consideration of the hearing commissioner's report. An opportunity to present oral argument to the commission on natural resources may be provided at the commission's discretion noticed for that purpose.

(2) A certified copy of a final decision adopted in a contested case by the commission on natural resources shall be prepared and served by certified mail on the contesting parties or their attorneys, together with the commission's finding containing a resume of the facts and grounds for decision.

History: 1954 ACS 85, p. 21, Eff. Sept. 24, 1975.

NATURAL RESOURCES COMMISSION

DEPARTMENT ORGANIZATION AND GENERAL FUNCTIONS

(By authority conferred on the department of natural resources by sections 33 and 63 of Act No. 306 of the Public Acts of 1969, as amended, and Executive Reorganization Order Nos. 1973-2 and 1973-2a, being §§24.233, 24.263, and 299.11 of the Michigan Compiled Laws)

PART 1. NATURAL RESOURCES COMMISSION

R 299.3001 Creation by law.

Rule 1. A conservation commission was created by Act No. 17 of the Public Acts of 1921, as amended, being §§299.1 to 299.6 of the Michigan Compiled Laws. Subsequently, Act No. 380 of the Public Acts of 1965 as further amended by Act No. 353 of the Public Acts of 1968, being §§16.101 to 16.494 of the Michigan Compiled Laws, restructured the commission and changed its name to natural resources commission.

History: 1954 ACS 86, p. 26, Eff. Dec. 23, 1975.

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R 299.3002 Composition.

Rule 2. (1) The natural resources commission consists of 7 members appointed by the governor, by and with the consent of the senate. Members are appointed for 4 year terms.

(2) The commission has organized to provide for annual election of a chairman from its membership.

History: 1954 ACS 86, p. 26, Eff. Dec. 23, 1975.

R 299.3003 Staff.

Rule 3. The commission appoints a director and approves the appointment of 2 deputy directors and such assistants and employees as are necessary to carry out the provisions of the act creating the department.

History: 1954 ACS 86, p. 27, Eff. Dec. 23, 1975.

R 299.3004 Rules of procedure.

Rule 4. The commission meets at least once a month in Lansing or at various places throughout the state. A majority of members constitute a quorum. All business is transacted by motion, support and majority vote by those members present, including the chairman. An agenda is prepared and made available to the public at any time in advance of and at the meeting.

History: 1954 ACS 86, p. 27, Eff. Dec. 23, 1975.

R 299.3005 Duties and responsibilities.

Rule 5. The commission protects and conserves the natural resources of the state; makes rules governing its organization and for the administration of the statute creating the department. It makes and enforces rules concerning the use and occupancy of lands and properties under its control; provides facilities for outdoor recreation; provides for reforestation and and wise management of the state's forests; makes contracts for the taking of coal, oil, gas and other minerals from state-owned lands. The commission fosters and encourages the protecting and propagation of game and fish; provides for the prevention and control of forest fire; prevents and guards against pollution of the air and waters of this state. The commission sets departmental policy for the conservation and preservation of the state's natural resources, including air and water.

History: 1954 ACS 86, p. 27, Eff. Dec. 23, 1975.

PART 2. NATURAL RESOURCES DEPARTMENT

R 299.3006 Executive staff; composition and responsibilities.

Rule 6. (1) The director, with the approval of the commission appoints a deputy director for environmental protection, a deputy director for natural resources, an executive assistant, bureau chiefs, regional managers and division chiefs as may be necessary. The department employs such other personnel as are necessary to carry out its duties and responsibilities.

(2) The department protects, conserves and manages the natural resources of this state; provides and develops facilities for outdoor recreation; prevents the destruction of timber and other forest growth by fire or otherwise; promotes the reforesting of forest lands belonging to the state; prevents and guards against the pollution of lakes and streams within the state and enforces all laws provided for that purpose with all of the authority granted by law; controls air pollution, controls the disposition and management of solid wastes and fosters and encourages the protection and propagation of game and fish.

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(3) Act No. 218 of the Public Acts of 1919, as amended, provides that the natural resources commission shall have charge and supervision of all lands acquired by the state as public parks for purposes of public recreation or preservation of natural beauty or historic association.

(4) The department is divided into 2 branches, the environmental protection branch and the natural resources branch, each headed by a deputy director. In addition, the administration group, the office of land use and the program services group are directly responsible to the director.

History: 1954 ACS 86, p. 27, Eff. Dec. 23, 1975.

R 299.3007 Environmental protection branch; scope and responsibilities.

Rule 7. The environmental protection branch includes the bureau of water management and the air pollution control and solid waste management divisions. Its primary responsibility is to protect, enhance and advocate the wise use of the state's natural environment, especially when affected by air, water quality and solid waste management.

History: 1954 ACS 86, p. 27, Eff. Dec. 23, 1975.

R 299.3008 Bureau of water management.

Rule 8. The bureau of water management is composed of the hydrological survey division, the municipal wastewater division, the water development services division and the water quality control division. These divisions are concerned primarily with water and related land resources and their uses and abuses.

History: 1954 ACS 86, p. 27, Eff. Dec. 23, 1975.

R 299.3009 Hydrological survey division.

Rule 9. (1) The hydrological survey division consists of sections dealing with flood plain management, lake engineering, submerged lands management and watershed planning. The division as a whole is responsible for conducting detailed hydrologic studies to determine stream flow and characteristics of stream flow behavior; for the review and recommendation for approval or rejection of applications for plat development or flood plain filling or grading to prevent harmful interference with flood plains; for the coordination of the federal flood insurance program and coordination of federal programs for delineation of flood hazard areas and coordination of federally financed flood control and beach erosion control projects; and the administration of the Great Lakes submerged lands act and the inland lakes and streams act.

(2) In implementing its submerged lands responsibilities, the division is charged with the responsibility of approving conveyances for certain types of Great Lakes bottomlands and controlling fills, dredging and other developments on all Great Lakes and inland waters bottomlands through the issuance of permits for construction, dredging or filling.

(3) The division is also responsible for the supervision of activities involving the establishment of legal lake levels and inland lake improvement projects. In addition, it handles the review of plans, issuance of construction permits, and field inspection of dams constructed throughout the state, as well as having authority over the safety of existing dams.

(4) The division is responsible for the administration of several water management statutes, including the iron ore beneficiation act, the surplus water management act, and the irrigation districts act.

(5) The watershed planning section was established by legislative appropria-

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tion in fiscal year 1971-72 to provide for state assistance in watershed planning under United States Public Law 566 of the 83rd Congress. The section is responsible for assisting the United States department of agriculture, soil conservation service watershed planning party, with the preparation of preliminary investigation reports and watershed work plans to meet the demand for small watershed improvements, including flood protection works, drainage improvements, recreation, and soil and water conservation programs under the above cited authority.

History: 1954 ACS 86, p. 28, Eff. Dec. 23, 1975.

R 299.3010 Municipal wastewater division.

Rule 10. (1) The municipal wastewater division supervises the collection, treatment, and disposal of liquid wastes in public wastewater treatment systems throughout the state. The division is responsible for, but not limited to, review and approval of plans for wastewater systems prior to construction and issues permits for their construction. The division certifies municipal treatment plant operators which is mandatory prior to employment for operation of public treatment facilities. The division follows monthly submission of municipal treatment plant operation records with plant field inspections and record evaluations.

(2) The municipal wastewater division carries out field surveys of local wastewater collection and treatment systems to pinpoint problem areas, determine waste loads on individual systems, and develop solutions to isolated pollution problems.

(3) The municipal wastewater division conducts an industrial waste surveillance program which is designed to identify the location, nature, and magnitude of wastes discharged to public sewer systems from industrial and commercial establishments. The division conducts training programs for public wastewater treatment plant operators.

History: 1954 ACS 86, p. 28, Eff. Dec. 23, 1975.

R 299.3011 Water development services division.

Rule 11. The water development services division is responsible for, but not limited to, comprehensive water and related land resources planning in the state including planning for the conservation, management, and use of water resources, flood plains, Great Lakes shorelands, irrigated lands, and water-oriented outdoor recreation areas. The division collects basic water resource data, projects water and related land resources demands, reviews and analyzes state and federal legislation pertaining to water resources, river basin planning and management, administers and distributes state and federal grant funds to local governmental units for construction of public wastewater treatment facilities and collecting sewers and implements the soil erosion and sedimentation control act of 1972.

History: 1954 ACS 86, p. 28, Eff. Dec. 23, 1975.

R 299.3012 Water quality control division.

Rule 12. (1) The water quality control division is responsible for the protection of and enhancement of the surface and groundwater resources of the state through the administration of the state's water pollution control program. The division includes the comprehensive studies section which undertakes data processing and waste assimilation studies; the laboratories section; the oil pollution and hazardous materials control section; the water quality appraisal section, including a biology unit and an engineering unit; a permit section, charged with implementation of this state's portion of the national pollutant discharge elimination system; and the state permit system; and the enforcement section.

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(2) Division district offices are presently located at Pointe Mouille, Lansing, Grand Rapids, Cadillac and Escanaba. The division carries out field surveys of water quality, aquatic life and temperature and laboratory analysis to evaluate water resources for management and control purposes, and investigates actual and suspected pollution problems. The division is responsible for enforcing the water resources commission's water quality standards which are designed to protect all of the surface waters, including the Great Lakes. Results of staff investigations and studies are translated into recommendations for water resources commission action.

(3) The division supervises the swimmers itch, the nuisance weed and control programs, and provides local government, lake associations, and others with technical assistance in treating waters to correct these problems.

History: 1954 ACS 86, p. 29, Eff. Dec. 23, 1975.

R 299.3013 Air pollution control division.

Rule 13. (1) The air pollution control division is responsible for administering the over-all air pollution control program. The division consists of the enforcement and field services section, engineering services section, technical services section, and administrative section.

(2) The enforcement and field services section operates through district offices presently located in Grand Rapids, Saginaw, Pontiac, Lansing, Kalamazoo, Marquette, and Ann Arbor. Other sections operate through the central office in Lansing.

(3) The enforcement section investigates potential air pollution sources to determine compliance or noncompliance with the air pollution control act and the rules of the air pollution control commission, investigates air pollution complaints, and translates air pollution control violations into recommendations for air pollution control commission action. Permits are required prior to the construction of any new source of air pollution, or prior to the installation of air pollution control devices. The division reviews plans and specifications and prepares recommendations for the commission with regard to the permit application.

(4) The division operates an air sampling network of numerous sampling stations located throughout the state. In addition, the division conducts special air community pollution studies. The division uses a computerized statewide emission inventory program for program planning and to determine actual and projected reductions in air pollution emissions.

(5) The division administers the air pollution surveillance fee program through which fees are charged directly to sources of air pollution for the cost of the air surveillance program conducted by the division.

History: 1954 ACS 86, p. 29, Eff. Dec. 23, 1975.

R 299.3014 Solid waste management division.

Rule 14. (1) The solid waste management division, through an education and enforcement program and with the assistance of certain local health departments, directs activities aimed at achieving an effective solid waste planning and design program to meet future needs and upgrading of existing solid waste management operations to overcome problems of ground and surface water pollution and air pollution and related nuisance conditions resulting from poor refuse handling and disposal facilities.

(2) The division is concerned with insect and rodent problem elimination which are directly related to unapproved solid waste operations. The division evaluates the convenience of services, cost and methods of financing, adaptability

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of new techniques such as resources recovery and recycling, and planning for future needs.

(3) Staff members of the division work closely with private and public refuse operators to assist in problem elimination and statutory compliance. All solid waste disposal facilities, including landfills, transfer stations, processing plants, and incinerators in the state, are controlled and required to operate under an approved engineering plan and license. In addition, all refuse handling vehicles fall under the licensing program of the division. The planning requirements of the solid waste management program administered by the division will require local governmental units throughout the state to consider their needs and develop appropriate solid waste management plans.

History: 1954 ACS 86, p. 29, Eff. Dec. 23, 1975.

R 299.3015 Natural resources branch; scope and responsibilities.

Rule 15. The natural resources branch is charged with the conservation and protection of the natural resources of the state particularly its forests, fish, wildlife, and minerals, and with providing diversity of recreational opportunities. The branch presently includes the field bureaus, the recreation bureau, and the resources bureau, each of which is headed by a bureau chief.

History: 1954 ACS 86, p. 30, Eff. Dec. 23, 1975.

R 299.3016 Field bureau.

Rule 16. The field bureau includes the forest fire and law enforcement divisions. This bureau is charged with field operations, including supervision of nearly all department personnel working within the regions and districts.

History: 1954 ACS 86, p. 30, Eff. Dec. 23, 1975.

R 299.3017 Forest fire division.

Rule 17. (1) The forest fire division is responsible for the protection of forests and forest values within 21.1 million acres of forest and wild grasslands. The division maintains forest fire field offices strategically located throughout the state staffed with trained forest fire personnel and equipped with specially designed forest fire suppression equipment. The division plans and conducts a statewide forest fire prevention program. It selects and trains keyman organizations and prepares equipment and manpower mobilization plans for forest fire suppression of large, difficult to control fires. The division maintains the forest fire experiment station at Roscommon, which is the only natural resources equipment development center east of the Mississippi river. The station's primary responsiblity is to research forest fire related problems, and to utilize modern equipment and engineering technology in developing the most efficient and up-to-date methods and equipment to alleviate them. Equipment items that have been developed at the station, and not commercially available, are manufactured at the station until an economical commercial source has been developed where they can be purchased.

(2) The division has a roads and bridges program in which approximately 1,300 miles of fire trails have been constructed and are maintained for access by fire suppression equipment to especially hazardous fire areas. The trails are also used extensively by recreationists.

(3) The division administers a prescribed burning program to improve wildlife habitat and forestry silviculture on state-owned lands.

(4) Responsibility for air operations in the department of natural resources has been assigned to the division. This includes establishment of operational pro-

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cedures, inspections for airworthiness of all aircraft, state-owned and contractual service, and pilot fitness.

(5) The division is responsible for the 2-way radio communications system used by many divisions in the department. It designs, licenses, approves purchases, installs and maintains the entire system.

(6) The division is responsible for maintaining the department safety program, to insure compliance with department of labor safety standards. The safety section conducts safety training programs, inspections of department facilities, and makes compilations of accident reports.

(7) The division has been designated as the department's representative in emergency services activities. This requires preparation of an emergency preparedness plan, representation in emergency task forces, direction and coordination of its own and other divisions' personnel, equipment, and financial records during periods and programs officially declared emergencies.

(8) The division administers the federal excess property program for the department. This activity includes locating, screening, and obtaining excess federal property from the general services administration for 2 programs, 1 in conjunction with the United States forest service in which equipment is obtained for conversion to fire fighting equipment, a major portion of which is reassigned under cooperative mutual aid agreements to strategically located rural fire departments to increase the total state forest fire fighting capabilities; and the other is in conjunction with the department of interior, the equipment obtained being used in federally funded matching programs, such as wildlife or fish habitat improvement.

History: 1954 ACS 88, p. 30, Eff. Dec. 23, 1975.

R 299.3018 Law enforcement division.

Rule 18. (1) The law enforcement division is responsible for the enforcement of all conservation laws and rules promulgated by the commission and the director for the protection of wildlife, fish, and state-owned lands.

(2) The division administers the state grants in aid program to the counties for marine and snowmobile education, enforcement and safety. Officers of the division also enforce marine and snowmobile laws. The division administers the department's outdoor recreation safety program, which includes general water, hunter, marine and snowmobile safety. Through these programs, thousands of young people are taught the rudiments of outdoor recreational safety, thus complying with statutory requirements. Members of the staff assist local units of government by promulgating rules for the control of hunters in areas which are no longer safe for the sport and for the control of watercraft and snowmobiles on the waters of the state.

(3) The division cooperates with the water resources commission in the investigation of water pollution, and enforces the provisions of the inland lakes and streams act and the Great Lakes submerged lands act.

(4) The division's officers assist and cooperate with other divisions in land and lot examinations and appraisals, trespass, deer yard surveys, game and fish census, snow and rain gauge recordings, deliveries of licenses to dealers, checking and auditing license accounts, fish plantings, showing films, giving lectures, making contacts with newspapers, radio and TV stations, sportsmen's clubs and schools. They assist other police agencies in jail breaks and policing of traffic accidents. They patrol the state parks and recreation areas, as well as other state-owned lands, in an effort to prevent rowdiness and vandalism.

History: 1954 ACS 88, p. 31, Eff. Dec. 23, 1975.

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R 299.3019 Regions and districts.

Rule 19. The field force of the department is directed by a bureau chief in charge of field activities and is composed of 3 regions and 14 districts. Region I includes the entire Upper Peninsula and has an office at Marquette. Region II includes the counties in the north half of the Lower Peninsula, the southernmost being: Oceana, Newaygo, Mecosta, Isabella, Midland, and Bay and has an office at Roscommon. Region III includes the remaining counties of the Lower Peninsula and has its offices in Lansing. There are 4 districts in region I, 4 in region II and 6 in region III, with offices presently located at Baraga, Crystal Falls, Escanaba, Newberry, Gaylord, Cadillac, Mio, Gladwin, Grand Rapids, East Lansing, Imlay City, Plainwell, Jackson, and Pontiac.

History: 1954 ACS 86, p. 31, Eff. Dec. 23, 1975.

R 299.3020 Recreation bureau.

Rule 20. The recreation bureau is charged with the development of recreational opportunities and facilities for the people of the state. The bureau includes the Mackinac Island state park commission, the parks division, the recreational services division, and the waterways division.

History: 1954 ACS 86, p. 31, Eff. Dec. 23, 1975.

R 299.3021 Parks division.

Rule 21. (1) Act No. 218 of the Public Acts of 1919 charges the commission through the parks division with the responsibility of acquiring, maintaining, preserving, and making available for the use of the public, open spaces, scenic areas, urban parks, areas of high intensive use, and unique natural and wilderness areas and areas of historical association within the parks system. The division recommends and enforces rules to protect park resources and park users. There are many outdoor centers open year around which are utilized heavily by school children and other youth organizations. Nature exhibits and trails, campground programs, and guided walks are provided by park interpreters.

(2) The division administers many state parks and recreation areas, and park sites under development which total over 200,000 acres. State park waterfrontage, a prime attraction, totals over a hundred miles on the Great Lakes and various inland lakes.

(3) There are thousands of campsites in the parks and recreation areas which provide opportunities for visitors to utilize beaches, trails, and other recreational facilities.

(4) The parks division also administers a conservation-corrections work camp program involving several camps statewide. This labor force provides many services to parks and other divisions and is also used during times of disaster emergencies.

History: 1954 ACS 86, p. 31, Eff. Dec. 23, 1975.

R 299.3022 Recreation services division.

Rule 22. The recreation services division offers technical consulting services designed to shape, promote, and coordinate local recreation programs and facilities in line with state efforts to meet the state's recreation needs. The division advises and evaluates, in cooperation with local units, possibilities for community based activities such as sports and athletics, social recreation, cultural projects, and special programs and facilities for the handicapped and aging. It assists, on a consultant basis, in the development of local recreation systems, proposals and innovations in architecture of recreational buildings, design of park and recreation

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area layouts, development of activity programs, and leadership training. The division continuously compiles and studies present and long-range recreational needs of urban and rural areas throughout the state.

History: 1954 ACS 86, p. 32, Eff. Dec. 23, 1975.

R 299.3023 Waterways division.

Rule 23. (1) The waterways division is responsible for the development and maintenance of recreational boating facilities throughout the state, including refuge harbors, docks, launching ramps, channels, anchorage areas and support facilities such as gasoline docks, parking areas, access roads and restrooms.

(2) The division administers the grant-in-aid program for local recreational boating facility construction. The division operates several docking facilities on its own as well. The division coordinates with the federal government in the design and construction of recreational harbors of refuge, channels, and related projects.

(3) The division is responsible for the department's public access site program which presently provides 570 boat launching sites throughout the state. The division operates the former highway department docks in the straits of Mackinac; the lock and dam complex at the city of Cheboygan; administers the boat livery inspection program; administers the vessels carrying passengers for hire program; and enforces the boat license tax act.

(4) The state waterways commission, a 5-member board appointed by the governor, functions as an advisory body to the division, the department and to the natural resources commission.

History: 1954 ACS 86, p. 32, Eff. Dec. 23, 1975.

R 299.3024 Resources bureau.

Rule 24. The resources bureau is responsible for the conservation and management of the natural resources of the state, particularly the forests, fisheries, wildlife, and minerals. The bureau includes the fisheries, forestry, geological survey, and wildlife divisions.

History: 1954 ACS 86, p. 32, Eff. Dec. 23, 1975.

R 299.3025 Fisheries division.

Rule 25. (1) The fisheries division is responsible for the protection, enhancement, and the promulgation of harvest regulations for all fish species in some 11,000 inland lakes, 36,000 miles of inland rivers and streams, in 24,000,000 acres of Great Lakes waters and miles of connecting waters. In association with its primary responsibility, the division cooperates with the water resources commission in protection of fish habitat through establishing water quality standards, reviewing aquatic habitat alterations and degradations, and investigating fish kills and related water quality problems. It acquires lands for fishermen access and stream protection, and constructs fishing facilities for nonboating fishermen.

(2) The division has 4 major sections for administering programs; inland, Great Lakes-anadromous, hatcheries and research. The hatchery section prepares plans for the production of fish in hatchery and rearing facilities located throughout the state as needed to meet management objectives of the inland or Great Lakes-anadromous sections. The hatchery section is also responsible for inspection and regulation of private game fish breeders in the state.

(3) The research section assists in the design of management evaluation projects, and conducts research to develop better fish management techniques or to determine the effects of environmental changes on fish and fish food organisms.

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(4) The Great Lakes-anadromous section administers the commercial fishery as well as programming the enhancement of Great Lakes and anadromous sport fisheries.

(5) The inland section is responsible for developing programs to improve fishing opportunities on inland lakes and streams. Management activities include fish stocking, habitat protection and improvement, population manipulations, and regulation of harvest to insure sustained optimum use at the highest value to the people of the state.

(6) The division cooperates with the adjacent Great Lakes states. The bureau of sport fisheries and wildlife, the national marine fisheries service, the province of Ontario, and the Great Lakes fishery commission in areas of research, enforcement, and management on the Great Lakes. The division also cooperates with the forest service and the national parks service in the management and regulation of fish in areas administered by these agencies.

History: 1954 ACS 86, p. 32, Eff. Dec. 23, 1975.

R 299.3026 Forestry division.

Rule 26. (1) Department forestry programs promote the utilization of the forest reserves of the state for the benefit of the economy; while fully protecting environmental values for the enjoyment, health and use of present and future generations. The division acts to achieve this objective in 6 principal areas. The division manages 3.8 million acres of state forest lands to yield that combination of products and service which will best meet the economic, recreational, and social needs of the people now and in the future.

(2) The division independently, and in cooperation with the federal government, encourages protection, use, and development of 12.8 million acres of private forest lands for public, social, and economic benefit.

(3) The division promotes the maintenance and development of a healthy and efficient forest products industry and encourages the use of wood resources for production of those consumer goods most needed and for which the raw material is best suited.

(4) The division develops and maintains state forest campgrounds.

(5) The division lays out and marks a number of scenic foot and hiking trails; lays out and maintains snowmobile trails and sets aside certain areas for off-road recreational vehicles.

(6) The division develops and maintains public access sites on lakes and streams within the state forests.

(7) The division acquires lands which will fill in state forest areas making easier and more efficient the management of such areas.

History: 1954 ACS 86, p. 33, Eff. Dec. 23, 1975.

R 299.3027 Geological survey division.

Rule 27. This division is responsible for the collection, compilation, evaluation, and dissemination of geological data to further the development of the state's rock and mineral and water resources. Conservation and environmental control are exercised through supervision and enforcement of statutes related to oil and gas exploration and development, mineral wells, and mined land reclamation. Services are provided for both groundwater development and protection. Assistance is provided to local governments in the valuation of metallic mines for local property taxation. Data are developed in popular form by the division to satisfy an expanding public interest in many phases of the earth sciences.

History: 1954 ACS 86, p. 33, Eff. Dec. 23, 1975.

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R 299.3028 Wildlife division.

Rule 28. (1) The wildlife division is responsible for the protection and management of the state's wildlife resources.

(2) Division sections are responsible for programs of forest wildlife, waterfowl and wetlands, farm and urban wildlife, wildlife services, and research.

(3) The division manages land acquisition programs to promote wildlife restoration, public hunting, the protection and restoration of endangered species and the growing interest in wildlife by the nonhunting public.

(4) The division recommends rules for hunting and trapping seasons; administers state game and wildlife areas; carries out wildlife introduction and propagation programs; conducts cooperative wildlife and habitat management programs with other public agencies and private landowners; maintains refuges and dedicated sanctuaries; administers the licensing and operation of shooting preserves, wildlife exhibits, importation, pet and breeders' permits. Research programs are conducted to obtain factual knowledge to support and improve management programs. The division operates wildlife research stations and a wildlife laboratory to carry out research projects and maintain wildlife disease surveillance.

(5) The division coordinates compliance with federal migratory bird treaties and the Pittman-Robertson act, the endangered species act, and the fish and wildlife coordination act.

(6) Public information and education programs are used to encourage and guide the wise use of the state wildlife resource.

History: 1954 ACS 86, p. 33, Eff. Dec. 23, 1975.

R 299.3029 Administration bureau.

Rule 29. Headed by a bureau chief, the administration bureau includes the administration division, the engineering division, the information and education division, the lands division, and the personnel division.

History: 1954 ACS 86, p. 34, Eff. Dec. 23, 1975.

R 299.3030 Administrative services division.

Rule 30. The administrative services division keeps the department's accounting records, receives and deposits revenues, drafts budgets, controls spending, procures materials and equipment, provides office services, issues and distributes licenses, coordinates special permit drawings, analyzes and prepares administrative procedures and manuals including automated data processing systems, establishes records control, conducts internal audits, coordinates certain grants-in-aids projects, prepares contracts, documents, processes vouchers for payments, and provides office and business management services at multiple-use field headquarters.

History: 1954 ACS 86, p. 34, Eff. Dec. 23, 1975.

R 299.3031 Engineering division.

Rule 31. The engineering division provides architectural and engineering planning for the department's capital improvement program and conducts land surveys. It drafts maps, charts, and graphs required in the administration of departmental activities. It supervises original designs or contracts covering professional services for those projects authorized by the legislature in the capital outlay program. The division is responsible for design and construction work on department projects, including state park campgrounds, fish hatcheries, wildlife flooding projects, and office and equipment buildings. The division reviews plans

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prepared by state and county highway departments and local units of government projects to insure protection of natural resource conservation interests.

History: 1954 ACS 86, p. 34, Eff. Dec. 23, 1975.

R 299.3032 Information and education division.

Rule 32. (1) The information and education division is responsible for the presentation of modern environmental concepts and wise resource management practices to the public. The division operates the Ralph A. MacMullan conservation school at Higgins lake to train departmental personnel and interested groups. The division assists in the training of teachers at both in-service and pre-service levels. Through Lansing and department field personnel, the division works directly with teachers in school systems. The division prepares and distributes publications related to departmental functions.

(2) Weekly news bulletins are prepared and distributed to the news media. A photographic file is maintained for department publications and for the department magazine "Michigan Natural Resources" for distribution to the press and other organizations. A fee may be charged for this service. The division prepares radio and television public service programs.

(3) Guidance and visual aids are provided department personnel in preparing for television appearances. The division produces motion pictures on natural resources management subjects. The division's film loan service is available to schools, clubs, and other organizations. A small film loan service fee is charged to help defray loan operation costs. The division directs the department's training program.

History: 1954 ACS 86, p. 34, Eff. Dec. 23, 1975.

R 299.3033 Lands division.

Rule 33. (1) The lands division is responsible for state acquisition of lands and property rights necessary for department programs, including acquisition of lands near urban areas for local multiple-use recreation centers; appraisal review of local municipal projects funded under either state or federal grant in aid programs; and for disposition by sale, exchange, or grant under existing state statutes of lands deeded to the state for nonpayment of taxes and those acquired by purchase or gift and declared surplus to departmental objectives. It cooperates with other department divisions in the planning of use of state land.

(2) The division manages improved tax-reverted properties, including elimination of hazardous conditions caused by buildings in disrepair and diseased elms.

(3) The division processes public use applications for tax-reverted lands filed by state agencies and local units of government, including issuance of deeds for approved grants. The division coordinates department review of applications for utility and road rights-of-way across state land and issues easements for approved routes.

(4) The division coordinates the review of mineral lease applications involving state lands, schedules and holds oil and gas, iron, copper, and mineral lease sales, and manages the voluminous paperwork involved in the many and varied legal transactions. The division is the lessor and abstractor for all leases and deeds involving private use of state-owned lots in the St. Clair flats in St. Clair county.

(5) The lands division maintains and controls land records showing current status of title including encumbrances on land under the jurisdiction of the department. The division is the official depository for the original field notes and plats of the United States government land office survey for the state.

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(6) The division reviews tax assessments and makes payments in lieu of taxes on all tax-reverted acreage and purchased land under the jurisdiction of the department. The division assists in the development of policies and procedures for multiple-use management of state-owned lands and associated natural resources.

History: 1954 ACS 86, p. 34, Eff. Dec. 23, 1975.

R 299.3034 Personnel division.

Rule 34. (1) The personnel division conducts personnel management, including recruiting and hiring employees and providing pre-retirement counseling. The division represents the department and its employees before civil service hearing boards and the civil service commission on matters of pay, promotions, examinations, job classifications, reviews, and employee grievances.

(2) The division prepares the department payroll; processes employee deductions for insurance, hospitalization, social security, and retirement; handles claims for workmen's compensation and accident cases, and administers the department's equal opportunity affirmative action program.

History: 1954 ACS 86, p. 35, Eff. Dec. 23, 1975.

R 299.3035 Office of land use.

Rule 35. (1) The office of land use was established within the department pursuant to executive reorganization order no. 1973-2 as a transfer from the executive office. Its land planning responsibilities and functions are derived from executive reorganization order no. 1973-2. The office is responsible for the development of a state land use plan and for preparation of legislative proposals to implement a state land use program. The office is developing broad guidelines for delineation of special land use areas throughout the state and will recommend priorities for those land areas.

(2) The office is examining the influence of land assessment and taxation practices in establishing uses of land. The office is evaluating the role of state and local governments in the management and planning of land use.

(3) The office is examining existing policies of conservation and management of state lands and methods to obtain optimum public benefits in the uses of the lands. The office maintains liaison with the legislature and governmental agencies on land use issues. The office administers portions of Act No. 183 of the Public Acts of 1943, as amended, pursuant to executive reorganization order no. 1973-2.

History: 1954 ACS 86, p. 35, Eff. Dec. 23, 1975.

R 299.3036 Program services group.

Rule 36. The program services group provides research, statistical, and planning service for the department. The group includes the office of planning services, the office of environmental quality review, and the office of statistics and surveys.

History: 1954 ACS 86, p. 35, Eff. Dec. 23, 1975.

R 299.3037 Office of planning services.

Rule 37. (1) The office of planning services is attached to the office of the deputy director for natural resources. The office is responsible for developing or coordinating multidivisional programs, and for long-range comprehensive natural resource management plans. The office prepares and maintains the statewide

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recreation plan which serves as a guide to the orderly development of a total recreation system reflecting needs and programs at all levels of government and private interests. The office provides economic evaluation of various department programs and other matters affecting natural resource allocation and use.

(2) The office develops, plans and implements programs having broad departmental and intergovernmental aspects, including natural rivers, wilderness and natural areas, and state trails systems. The office coordinates and represents the department's interests with certain other state and federal agency programs affecting fish, wildlife, recreation, and other natural resource values.

(3) As a planning organization the unit has responsibility for planning and program evaluation guidance to the resource management divisions, and for the conduct of surveys and analysis of data for use by these and other divisions. This office is involved in the interchange of information and data with federal, state, regional, and local agencies having responsibilities in recreation planning and program development. As a coordinating office it carries out special studies and assignments, particularly when multidivisional interests are involved. Many of these assignments arise through requirements imposed by federal agencies or statutes. The office is designated as the agency responsible for state natural resource management planning under applicable federal law.

History: 1954 ACS 86, p. 35, Eff. Dec. 23, 1975.

R 299.3038 Office of environmental quality review.

Rule 38. (1) The office of environmental quality review is attached to the director's office. The office is responsible for coordinating interdivisional environmental matters; for assisting in drafting and reviewing of department environmental impact statements; and conducting and coordinating departmental review of environmental impact statements of other state and federal agencies. The office advises the director and deputy directors for natural resources and environmental protection on a wide range of environmental matters as assigned or requested and prepares policy statements and resolutions on broad-issue environmental matters. The office is responsible for departmental liaison on environmental matters with the department of state highways and transportation, and represents the department on a wide variety of committees and councils and provides liaison between the department and citizen's environmental groups.

(2) The office prepares guidelines for department field operations to insure environmental protection.

(3) The office coordinates pesticide policies.

History: 1954 ACS 86, p. 36, Eff. Dec. 23, 1975.

R 299.3039 Office of surveys and statistical services.

Rule 39. (1) The office of surveys and statistical services is attached to the deputy director for natural resources. It collects and disseminates statistics gathered from surveys and studies which it conducts.

(2) It also serves in a statistical planning and consulting capacity for department units that have a need for these services and whose projects meet with the approval of the deputy director for natural resources.

(3) Especially close liaison is maintained between this office and the fisheries and wildlife divisions. Estimates of kill and catch, numbers of hunters and fishermen, and hunting and fishing effort are produced annually from results of various surveys. New impetus is being directed towards evaluation of management programs of the department.

History: 1954 ACS 86, p. 36, Eff. Dec. 23, 1975.

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PART 3. OTHER COMMISSIONS WITHIN DEPARTMENT

R 299.3041 Air pollution control commission.

Rule 41. (1) The air pollution commission was created by Act No. 348 of the Public Acts of 1965 and was transferred from the department of public health on April 1, 1973, by executive reorganization order nos. 1973-2 and 1973-2a. The commission exercises certain statutory duties and functions independently of the department of natural resources. The commission consists of the director of the department of public health who acts as chairman, the director of natural resources, the director of agriculture and 8 citizens appointed by the governor with the advice and consent of the senate. Of the 8 citizens appointed by the governor, 2 are representatives of industrial management, 1 is a registered professional engineer trained and experienced in matters of air pollution measurement and control, 2 are representatives of local government (1 of whom is a full-time air control pollution officer), 1 is a licensed doctor of medicine who is experienced and competent in the toxicology of air contaminants, 1 is a member of organized labor and 2 represent the general public.

(2) Each member is appointed for a term of 3 years. They receive no compensation but are reimbursed for actual and necessary expenses incurred in the performance of official duties. The statute provides that they shall meet at least twice each year. The commission may: (a) establish standards for ambient air quality and for air contaminant emissions; (b) issue permits for the installation and the operation of air pollution control facilities; (c) compel the attendance of witnesses at proceedings of the commission upon reasonable notice; (d) make findings of fact and determinations; (e) make, modify or cancel orders which require the control of air pollution; (f) institute in a court of competent jurisdiction proceedings to compel compliance with any rule or determination or order; (g) enforce rules promulgated under this act; (h) accept or require submission of plans for air cleaning devices, approve and inspect for compliance; (i) enter and inspect at reasonable times and places to investigate actual or suspected sources of air pollution; (j) receive and initiate complaints of air pollution which are in violation of the act or rule; (k) prepare and develop a general comprehensive plan for the prevention, control or abatement of air pollution; (l) encourage voluntary cooperation in controlling air pollution; (m) encourage the formulation and execution of plans by cooperative groups or associations of cities, villages and counties or districts for control of air pollution; (n) cooperate with agencies of the United States government; (o) conduct studies and research; (p) conduct and supervise programs of air pollution education; (q) determine by field studies and sampling the degree of air pollution in the state; and (r) provide advisory technical consultation services to local communities.

(3) The department of natural resources, through its air pollution control division, provides staff to serve the commission.

History: 1954 ACS 86, p. 36, Eff. Dec. 23, 1975.

R 299.3042 Mackinac Island state park commission.

Rule 42. (1) The Mackinac Island state park commission was created and given certain powers by Act No. 355 of the Public Acts of 1927. The commission consists of 7 members appointed by the governor and confirmed by the senate for 6-year terms, of which no more than 2 expire in any given year. They receive no compensation but may be reimbursed for expenses incurred in performance of official duties.

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(2) Commissioners set the dates of meetings, and the chairman has the authority to call special meetings. A majority of members constitutes a quorum. All business is transacted by motions, support and majority vote of those commissioners present, including the chairman. Each year the commissioners elect a chairman, vice-chairman, and secretary and designate a resident commissioner, who shall be a legal resident and property owner in the city of Mackinac Island. The commission employs a superintendent and other persons.

(3) The Mackinac Island state park commission operates as a type I transfer to the department of natural resources.

(4) The Mackinac Island state park commission administers, under specific legal directives, Mackinac Island state park, consisting of 1,773 acres on Mackinac Island and Michilimackinac state park, consisting of 25 acres in the village of Mackinaw city. The historical aspect of the sites is emphasized through suitable restoration and development and through an interpretive program.

(5) The commission effects leases and fixes prices for rentals or privileges upon the property of the 2 state parks. It may grant privileges and franchises for waterworks, sewage, transportation and lighting for a period not to exceed 30 years.

(6) The commission may promulgate rules for the parks under its jurisdiction, but cannot promulgate a rule permitting the use of motor vehicles on any roads situated on state park lands; it may issue temporary permits for such use.

(7) The commission may finance the construction and acquisition of certain improvements to park properties through the issuance of revenue bonds and to impose charges and fees providing for the payment and security of these bonds and for the operation and maintenance of these improvements.

History: 1954 ACS 86, p. 37, Eff. Dec. 23, 1975.

R 299.3043 Water resources commission.

Rule 43. (1) The water resources commission was originally created as the stream control commission by Act No. 245 of the Public Acts of 1929. It was transferred to the department of natural resources as a type I transfer by Act No. 380 of the Public Acts of 1965, and on April 1, 1973, by a type II transfer by executive reorganization order nos. 1973-2 and 1973-2a, except that certain powers, duties, and responsibilities relating to water pollution control are still exercised independent of the department of natural resources. The commission consists of the director of natural resources, the director of public health, the director of state highways and transportation, the director of agriculture, and 3 citizens of the state appointed by the governor with the advice and consent of the senate, 1 from groups representative to industrial management, 1 to represent conservation or environmental interests, and 1 from groups representing municipalities. Their terms of office are staggered. They receive no compensation but are reimbursed for actual and necessary expenses in performance of official duties.

(2) The commission meets at least once a month and is charged with authority to protect and conserve the water resources of the state and has control over the pollution of surface or groundwaters and the Great Lakes. It may make surveys, studies, and investigations of the uses of waters and cooperate with other governments, governmental units, and agencies thereof. The commission may assist any flood control district in an advisory capacity. The commission advises and consults with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of any

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flood control district or intercounty drainage district. It may enforce the provisions and rules promulgated under Act No. 245 of the Public Acts of 1929, as amended.

(3) The water resources commission is the designated state agency to cooperate and negotiate with other governments, governmental units, and agencies thereof in matters concerning the water resources of the state, including flood control and beach erosion control. The commission has control over the alterations of natural and artificial watercourses of all rivers and streams in matters of flood control. The commission establishes pollution standards for lakes, rivers, streams, and other waters in relation to public use to which they are or may be put. The commission controls the amount of pollution discharged into the waters of the state, and administers Act No. 200 of the Public Acts of 1970. The commission administers grants in aid programs, federal and state, to local units of government. The commission administers the liquid industrial waste haulers act and the watercraft pollution control act.

History: 1954 ACS 86, p. 37, Eff. Dec. 23, 1975.

R 299.3044 Waterways commission.

Rule 44. The waterways commission was established by Act No. 320 of the Public Acts of 1947, being §§281.501 to 281.511 of the Michigan Compiled Laws. It became a part of the department as a type I transfer by Act No. 380 of the Public Acts of 1965. On April 1, 1973, the commission was changed to a type II status by executive reorganization order no. 1973-2. The commission consists of 5 members appointed by the governor, with the advice and consent of the senate for a 3-year term of office. The commission has adopted organization rules providing for the annual election of a chairman, vice chairman, and secretary from its membership. The commission is vested with the following powers and duties: (a) to acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters within the state; (b) to acquire such lands, easements, and rights-of-way necessary for harbors and channels; (c) to acquire suitable areas on shore for disposal of the material from dredging; (d) to represent the state in its relationships with the chief of engineers, United States army, and his authorized agents; (e) to conduct the inspection of boat livery craft and craft carrying passengers-for-hire; (f) to administer the former highway department docks and facilities in the straits of Mackinac; (g) to administer the department's public access site program; and (h) to administer the Cheboygan lock and dam complex on the Cheboygan river. The exercise of these powers and duties is subject to the approval of the natural resources commission.

History: 1954 ACS 86, p. 38, Eff. Dec. 23, 1975.

PART 4. ADVISORY AGENCIES

R 299.3046 Boating and water safety advisory council.

Rule 46. Section 11 of Act No. 303 of the Public Acts of 1967 provides that the director may establish a boating and water safety advisory council of such membership as he may determine appropriate. This has been done. The council is presently made up of 9 members from various professions including a representative of the sportsman's clubs of the state. The council meets twice a year and advises the marine safety division and the director in matters of boating, the need for watercraft controls, enforcement and general water safety.

History: 1954 ACS 86, p. 38, Eff. Dec. 23, 1975.

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R 299.3047 Great Lakes fishing advisory commission.

Rule 47. (1) The Great Lakes fishing advisory commission was created in section 1d of Act No. 84 of the Public Acts of 1929. The purpose of the commission is to advise the director of natural resources on matters affecting the Great Lakes fisheries, as submitted to it by the director.

(2) The commission consists of 9 members, with terms of 3 years. The members are not compensated but are entitled to actual and necessary expenses incurred in performance of advisory duties.

(3) Members are recruited from the commercial fishing industry, sports fishermen and the general public.

History: 1954 ACS 86, p. 39, Eff. Dec. 23, 1975.

R 299.3048 Hunter area control committee.

Rule 48. (1) The hunter area control committee was created by section 1 of Act No. 159 of the Public Acts of 1967. It is composed of a representative of the department of natural resources, a representative of the department of state police, the township supervisor, and a representative of the sheriff's department of the counties involved.

(2) The committee selects a chairman from its members who serves for a year, then alternates with a member from another agency. The department of natural resources performs clerical, operational, and administrative duties of the committee. Expenses incurred are borne by the member's department. Costs of surveys and actions outside the committee and the sheriff's department are borne by the department of natural resources.

(3) In the interest of public safety and the general welfare, the committee may regulate and prohibit hunting and the discharge of firearms and bow and arrow on those areas where hunting or the discharge of firearms or bow and arrow may or is likely to kill, injure, or disturb persons who reasonably can be expected to be present in the areas or to destroy or damage buildings or personal property situated or customarily situated in such areas or will impair the general safety and welfare. The committee may determine and define the boundaries. Areas may be closed throughout the year or parts thereof. The committee, in furtherance of safety, may designate areas where hunting is permitted only by prescribed methods and weapons not inconsistent with law.

History: 1954 ACS 86, p. 39, Eff. Dec. 23, 1975.

R 299.3049 Natural beauty roads citizen's committee.

Rule 49. Act No. 150 of the Public Acts of 1970 provides for the setting aside of roads or certain portions thereof for the purpose of maintaining natural beauty as it is and provides that the director may establish a citizen's advisory committee to assist in the formulation of proposals for guidelines and procedures in establishing natural beauty roads.

History: 1954 ACS 86, p. 39, Eff. Dec. 23, 1975.

R 299.3050 Mineral wells advisory committee.

Rule 50. The mineral wells advisory committee was created by Act No. 315 of the Public Acts of 1969. The state geologist acts as supervisor of mineral wells. He appoints 7 persons, subject to the approval of the director and the commission, to the mineral wells advisory board. The members are chosen from owners and

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operators subject to the act. The term of each member is 3 years on a staggered basis. The board elects a chairman and a vice-chairman, and meets semiannually, or more often. The board consults and advises the supervisor and performs such other duties as the supervisor deems necessary. The board participates in all public hearings provided for in the act and makes recommendations with respect to any rules or orders which may be considered for adoption pursuant to the evidence and testimony submitted. The board receives no compensation but may be reimbursed for travel or other expenses.

History: 1954 ACS 86, p. 39, Eff. Dec. 23, 1975.

R 299.3051 Oil and gas advisory board.

Rule 51. The oil and gas advisory board was created by Act No. 61 of the Public Acts of 1939. The director is the supervisor of wells. He appoints 8 persons, subject to the approval of the commission, to the oil and gas advisory board. Six members are chosen from oil or gas producers or operators with special reference to their training, experience and standing in the oil or gas industry; 2 are from the general public. The term of each member is for 3 years on a staggered basis. The board elects a chairman and a vice-chairman and meets monthly. The board is advisory. The board may participate officially in all public hearings provided for by Act No. 61 of the Public Acts of 1939, as amended, and does advise and consult with the supervisor with respect to rules or orders which may be considered for adoption pursuant to the evidence and testimony submitted. The members receive no compensation but may be reimbursed for travel or other expenses.

History: 1954 ACS 86, p. 39, Eff. Dec. 23, 1975.

R 299.3052 State recreation advisory committee.

Rule 52. The advisory committee for the state recreation and cultural arts section was created by Act No. 326 of the Public Acts of 1965, as amended. It consists of 15 members appointed by the governor. They serve without compensation for 4 years. The committee provides continual representation of citizen interest, need, and participation in a wide variety of leisure time pursuits.

History: 1954 ACS 86, p. 40, Eff. Dec. 23, 1975.

R 299.3053 Wilderness and natural areas advisory board.

Rule 53. (1) The wilderness and natural areas advisory board was created by Act No. 241 of the Public Acts of 1972. It consists of 7 members appointed by the governor with the advice and consent of the senate. One is from the Upper Peninsula; 1 from the Lower Peninsula north of townline 16; 3 possess experience in the evaluation and preservation of wilderness or natural areas; 1 is trained and experienced in wildlife biology; 1 is a registered forester, trained and experienced in forest ecology, silviculture and protection of forest land; 1 is qualified in outdoor education and nature interpretation; and 1 represents those industries whose basic resources come from the lands and forests. The board elects a chairman from its members. Members serve for 3 years and receive no compensation but are reimbursed for expenses incurred in the performance of duties.

(2) The board makes recommendations for the dedication and administration of wilderness areas, wild areas and natural areas in accordance with the act.

History: 1954 ACS 86, p. 40, Eff. Dec. 23, 1975.

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R 299.3054 Advisory committee on economic poisons.

Rule 54. (1) The advisory board on economic poisons was created by Act No. 233 of the Public Acts of 1959.

(2) The committee was formed to consult with and aid the director of agriculture in the administration of the economic poisons act of 1959 which provides for the prevention of harm to man, contamination of food or feed or the destruction or damage of agricultural crops, growing plants, livestock, or wildlife from the application of any economic poison, pesticide, insecticide, herbicide, fungicide, or rodenticide.

(3) The committee is composed of the director of natural resources, the director of public health, the director of aeronautics, the director of the pesticide research center of Michigan state university, and the executive secretary of the water resources commission.

History: 1954 ACS 86, p. 40, Eff. Dec. 23, 1975.

R 299.3055 Aeronautics commission.

Rule 55. The aeronautics commission was created by Act No. 327 of the Public Acts of 1945 and was transferred to the department of state highways and transportation by executive reorganization order nos. 1973-1 and 1973-1a. The commission consists of the highway director, the director of state police, the director of natural resources and 5 other members who are appointed by the governor with the advice and consent of the senate. Terms of office are 4 years. Members are compensated for actual expenses incurred in performance of duties as a commissioner. The commission has general supervision over aeronautics in the state. It encourages, fosters, and participates with the political subdivisions of the state in the development of aeronautics; establishes and encourages the establishment of airports and landing fields.

History: 1954 ACS 86, p. 40, Eff. Dec. 23, 1975.

R 299.3056 The campgrounds advisory committee.

Rule 56. (1) The campgrounds advisory committee was created by Act No. 171 of the Public Acts of 1970. The act is administered by the department of public health. The director of public health has appointed an advisory committee with broad geographical distribution of members, 11 in number. Of the 11 members, 1 represents the Michigan mobile home and recreational vehicle institute; 2 represent customers including 1 who represents a recognized campground users association; 2 campground owners; 1 representing a primitive type of campground; 2 represent counties; 2 represent local health departments; the director of natural resources or his designated representative. The members serve for 3 years.

(2) The advisory committee assists the director of public health in the formulation of rules regarding sanitation and safety standards for campgrounds and public health. It further advises him in the administration of the act and the rules.

History: 1954 ACS 86, p. 40, Eff. Dec. 23, 1975.

R 299.3057 The Great Lakes basin compact and commission.

Rule 57. (1) The Great Lakes basin compact is an agreement, entered into in 1955, between the states of Illinois, Indiana, Michigan, Minnesota, New York, Pennsylvania, and Wisconsin and the Canadian provinces of Ontario and Quebec

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to promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the Great Lakes basin, called the "basin" hereafter; to plan for the welfare and development of the water resources of the basin as a whole as well as for those portions which may have problems of special concern; to make it possible for the states of the basin and their people to derive the maximum benefit from utilization of public works, in the form of navigational aids or otherwise; to advise in securing and maintaining a proper balance among industrial, commercial, agricultural, water supply, residential and other legitimate uses of water resources of the basin; and to establish and maintain an intergovernmental agency to the end that the purposes of this compact may be accomplished more effectively.

(2) The commission is composed of not less than 3 nor more than 5 commissioners from each member state; each state delegation is entitled to 3 votes. By statute, this state provides for 5 commissioners: the attorney general, the director of the department of natural resources, the executive secretary of the water resources commission, the director of the department of commerce, and 1 member appointed by the governor, with the advice and consent of the senate, from groups or organizations interested in the Great Lakes. Each commissioner has ⅗ of a vote whenever a vote is required by the terms of the compact.

History: 1954 ACS 86, p. 41, Eff. Dec. 23, 1975.

R 299.3058 Interstate oil compact commission.

Rule 58. The interstate oil compact commission is a cooperative advisory body composed of the several oil and gas producing states whose purpose is to conserve oil and gas by the prevention of physical waste from any cause. This state became a compacting state through the authority of Act No. 138 of the Public Acts of 1947. The governor is this state's member of the compact. He may appoint official representatives to act in his stead and such appointments have been either to the director or the chief of the geological survey. The compact commission meets at least twice each year. Compact business is accomplished through several committee structures. Appointment of committee members is mainly from agency personnel. Compact membership is a line item appropriation through the geological survey. Official representatives and committee appointees receive no compensation.

History: 1954 ACS 86, p. 41, Eff. Dec. 23, 1975.

R 299.3059 State agriculture stabilization and conservation committee.

Rule 59. The director is an ex officio member of the state agriculture stabilization and conservation committee which was established to advise the United States department of agriculture on the use of set aside agricultural lands. The director assists in developing guidelines for (a) providing technical assistance for wildlife and habitat improvement practices; (b) renewing applications of farmers for public land use option and selecting areas based on desirability of wildlife habitat; (c) determining accessibility; (d) evaluating effects on surrounding areas; (e) considering aesthetic values; (f) checking compliance of cooperators; and (g) carrying out programs of wildlife stocking and management of acreage set aside.

History: 1954 ACS 86, p. 41, Eff. Dec. 23, 1975.

R 299.3060 The state soil conservation committee.

Rule 60. (1) The state soil conservation committee was created by Act No. 297 of the Public Acts of 1937. It consists of 7 members, the dean of agriculture at

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Michigan state university, the director of agriculture, the director of natural resources, and 4 practical farmers appointed by the governor. Appointed members serve for 4 years.

(2) The committee assists the directors of soil conservation districts in carrying out their programs; keeps the directors informed of the activities and experience of other districts; approves and coordinates the programs of the several soil conservation districts; secures the assistance and cooperation of the United States and any of its agencies and disseminates throughout the state the activities of the soil conservation districts.

History: 1954 ACS 86, p. 41, Eff. Dec. 23, 1975.

R 299.3061 Water well drillers advisory board.

Rule 61. Act No. 294 of the Public Acts of 1965, as amended, is administered by the department of public health. The act provides for an advisory board of 9 members, 5 of which are well drilling contractors; 1 from each of the departments of public health and natural resources; 1 from the staff of the water resources commission and 1 from a county health department. The act specifies the department of natural resources representative as an employee of the geological survey appointed by the director. The terms are staggered. The board advises the state public health director in adoption of rules and construction codes and assists in determination of the qualification and examination of license applicants. The nonagency members are reimbursed for attendance at meetings but not to exceed $600.00 annually.

History: 1954 ACS 86, p. 42, Eff. Dec. 23, 1975.

PART 5. CONTESTED CASES

R 299.3071 Definitions.

Rule 71. (1) "Contested cases" means matters involving licenses, permits, or approvals issued by the department of natural resources and other matters which are within the definition of "contested cases" as set forth by subsection (3) of section 3 of Act No. 306 of the Public Acts of 1969, as amended, being §24.203 of the Michigan Compiled Laws.

(2) "Contested case hearing" means a hearing initiated pursuant to chapters 4, 5, and 6 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.271 to 24.306 of the Michigan Compiled Laws and R 299.3072 to R 299.3079.

(3) "Person" means an individual, partnership, association, corporation, municipality, or any other entity.

(4) "Director" means the director of the department of natural resources or his authorized representative.

History: 1954 ACS 86, p. 42, Eff. Dec. 23, 1975.

R 299.3072 Procedures from administrative procedures act; appearances at hearings.

Rule 72. (1) Department of natural resources administrative hearings procedures in contested cases and judicial review thereof shall be in accordance with and subject to chapters 4, 5, and 6 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.271 to 24.306 of the Michigan Compiled Laws.

(2) Appearances at a contested case hearing shall be either in person, or by duly authorized agent, or by legal counsel.

History: 1954 ACS 86, p. 42, Eff. Dec. 23, 1975.

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R 299.3073 Initiation of contested case hearings.

Rule 73. (1) Contested case hearings may be initiated by the commission or the department. If the commission initiates a contested case hearing, by resolution it shall direct the department to conduct the hearing. Except in the case of suspension or revocation of a license or permit, the commission or the department shall initiate a contested case hearing by notice thereof mailed by certified mail at least 30 days prior to the hearing.

(2) Any person may request that a contested case hearing be initiated by the filing of a petition on a form provided by the department in the office of the director in Lansing, Michigan. The petition shall state the legal authority under which a hearing is requested. The petition shall provide a brief statement of matters asserted, a statement of the relationship of the petitioner to the issue, and a statement of relief sought.

History: 1954 ACS 86, p. 42, Eff. Dec. 23, 1975.

R 299.3074 Notice to other persons.

Rule 74. (1) When a hearing is initiated, the director shall provide notice of the hearing to those persons as may be known to him who may be materially affected by the proceedings or who may request such notification at least 30 days prior to the hearings. The notice shall be by mail, by publication, or by both, as may be deemed necessary by the director, or as required by applicable statute or rule. The notice shall be given at least 30 days prior to the hearing except in the case of suspension or revocation of a license or permit.

(2) The department shall send notices of the initiation of all adversary contested case hearings which would require the employment of a hearing officer to any person who requests so in writing. A person desiring to receive such notice shall submit his request annually.

History: 1954 ACS 86, p. 42, Eff. Dec. 23, 1975.

R 299.3075 Hearing officer; contested case hearings; depositions.

Rule 75. (1) That portion of a contested case hearing in which testimony and evidence is to be taken may be referred to a hearing officer who shall be designated and authorized by the director to preside at the hearing. The hearing officer shall hear the evidence, prepare a record of the proceedings, and, if so directed by the director or commission, prepare a proposal for a decision, including findings of fact and conclusions of law. The record of the proceedings and the proposal for decision if required as prepared by the hearing officer shall be filed at the department offices as soon as possible following the completion of the testimony.

(2) If the hearing officer does not prepare a proposal for decision, the director or commission shall either have heard the contested case or read the record before making the final decision.

(3) Depositions shall be taken only when authorized by the official hearing the case. The taking of depositions shall be in accordance with the Michigan court rules.

History: 1954 ACS 86, p. 43, Eff. Dec. 23, 1975.

R 299.3076 Adjournment of contested case hearings.

Rule 76. A hearing shall not be adjourned or continued except on the order of the official hearing the case. A request for adjournment or continuance shall be in writing, state concisely the reasons for the request, and be filed not later than 5

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days prior to the date of hearing. A hearing may be adjourned or continued on less than 5 days' notice upon sufficient showing of good cause.

History: 1954 ACS 86, p. 43, Eff. Dec. 23, 1975.

R 299.3077 Permission to intervene or file amicus curiae briefs.

Rule 77. (1) Any person may petition to intervene in any contested case hearing. A petition for intervention shall set forth the interest of the petitioner and a concise statement of reasons for intervention. A petition to intervene shall be filed not later than 5 days prior to the date set for hearing. The hearing officer may waive the 5 days' requirement on a showing of good cause.

(2) In a contested case hearing, any person may submit an amicus curiae brief to the hearing officer, the department, or the commission. The brief shall be filed not more than 30 days after the hearing officer's proposed findings of fact and conclusions of law are transmitted to the director and in a case heard by the director, or in all other instances, not more than 30 days after conclusion of the hearing.

History: 1954 ACS 86, p. 43, Eff. Dec. 23, 1975.

R 299.3078 Department files and records; use in contested case hearings.

Rule 78. (1) The files and records of the department specified in the notice of hearing shall be available for inspection by the parties prior to the hearing, and the whole or part thereof may be offered at the hearing as evidence on behalf of any party.

(2) Following a hearing conducted by a hearing officer and completion of proceedings, a copy of the proposal for decision if required shall be transmitted within 30 days to the director and at the same time shall be served by certified mail on all parties to the proceedings and notice by regular mail to persons mentioned in subrule (2) of R 299.3074.

History: 1954 ACS 86, p. 43, Eff. Dec. 23, 1975.

R 299.3079 Stipulations and consent orders.

Rule 79. (1) A party to a contested case hearing who desires to dispose of the case by stipulation or consent order may mail to the director, at least 10 days before the date set for the hearing, his written consent to the terms and conditions of the proposed order or action as set forth in the notice of hearing. Agreement between the parties on the terms and conditions of a stipulation or consent order constitutes sufficient cause for the director to dispose of the case without further hearing. Notice of the terms of the stipulation or consent order shall be sent within 10 days before the entry of the stipulation or consent order to all persons who receive notice of the hearing. Persons who receive notice of the hearing and terms of stipulation or consent order shall be notified of the final outcome of the case.

(2) After the hearing officer has submitted the proposal for decision, and the hearing proceedings have been completed, the director or commission shall make a final decision within 60 days. Persons who receive notice of the hearing shall be notified of the decision.

History: 1954 ACS 86, p. 43, Eff. Dec. 23, 1975.

R 299.3080 Michigan oil and gas hearings.

Rule 80. Hearings conducted by the director or employees of the geological survey division arising pursuant to Act No. 61 of the Public Acts of 1939, as amended, Act No. 92 of the Public Acts of 1970, Act No. 197 of the Public Acts of 1959, and Act No. 315 of the Public Acts of 1969, being §§319.1 to 319.27, 425.181

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to 425.188, 319.351 to 319.394, and 319.221 to 319.236 of the Michigan Compiled Laws, shall be in accordance with and subject to the requirements of the specific act and administrative rules promulgated thereto.

History: 1954 ACS 86, p. 43, Eff. Dec. 23, 1975.

R 299.3081 Air pollution control commission and water resources commission hearings.

Rule 81. (1) Hearings conducted by the air pollution commission shall be in accordance with and subject to Act No. 348 of the Public Acts of 1965, as amended, being §§336.1 to 336.36 of the Michigan Compiled Laws and administrative rules promulgated pursuant thereto.

(2) Hearings conducted by the water resources commission shall be in accordance with and subject to Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.13 of the Michigan Compiled Laws, and administrative rules promulgated thereto.

History: 1954 ACS 86, p. 44, Eff. Dec. 23, 1975.

PART 6. ACCESS TO DOCUMENTS

R 299.3091 Availability of documents, photographs, and pertinent information.

Rule 91. It is the policy of the department to make information concerning its activities fully available to the public. Therefore, all writings, documents, photographs, and informational materials of the department shall be made available to any person during normal working hours, except where disclosure of material is prohibited by statute or is subject to R 299.3092. Materials available for public inspection, copying, and purchase include, but are not limited to:

(a) Final orders or decisions in contested case hearings and the records on which they were made.

(b) Promulgated administrative rules and policy statements.

(c) Written statements which implement or interpret law, rules, or policy, including, but not limited to, guidelines, manuals, and forms with instructions adapted or used by the department in the discharge of its functions.

(d) Agendas and minutes of all commissions, advisory boards, council, and committee meetings.

(e) Orders, final orders, stipulations, and permits.

(f) Transcribed records of conferences, public and statutory hearings.

(g) Field orders and reports from staff and field.

(h) Maps, charts, and surveys.

(i) General information consisting of bulletins, booklets, hunting and fishing guides, and outdoor safety training materials.

(j) Photographs; however, the department may formulate reasonable policy on the availability of photographs for advertisement and resale, and may assess a fee for photographs, film loans and sales, magazines, fee publications, and other lengthy abstracts and transcripts.

(k) A list of statutes administered by the department.

(l) A list of statutes providing rule-making authority to the commission and to the director.

(m) An organizational chart.

History: 1954 ACS 86, p. 44, Eff. Dec. 23, 1975.

R 299.3092 Documents, photographs, and materials which shall not be available.

Rule 92. (1) Information, the disclosure of which is expressly prohibited by statute, shall not be available to the public.

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(2) All denials shall be made promptly and accompanied by a written statement of the reasons therefor. All denials of requests for information shall be brought to the attention of the director for review by him. Appeals from action by the director shall be to the commission.

History: 1954 ACS 86, p. 44, Eff. Dec. 23, 1975.

R 299.3093 Requests for documents or information.

Rule 93. A person desiring to inspect or copy materials shall make a request to the appropriate department office. The department shall promptly produce the materials for inspection and copying. If it is not possible to produce the materials, the delay shall be for good cause only, and the reasons therefor shall be given to the requestor in writing. If original materials are obtained for inspection, the department shall require that the person sign for them, not remove them from the department offices, and that he return them at the end of the work day. Upon receipt of his request and pledge of reimbursement, the department shall order duplication of the materials under its open account arrangements for commercial duplication with billing at cost direct to the requestor.

History: 1954 ACS 86, p. 44, Eff. Dec. 23, 1975.

PART 7. MISCELLANEOUS

R 299.3094 Requests for promulgation of rules.

Rule 94. (1) A person requesting the commission or the department to promulgate a rule shall do so on a form provided by the department. The form is available at the offices of the director in Lansing, and at regional and district offices. The request shall contain the information required on the form, the signature and address of the person making the request, and the statute under which he requests the rule be promulgated. The request shall be filed either in person or by mail in the office of the director in Lansing. Within 90 days after receipt of a correctly filed request, the commission or the department shall initiate the processing of a rule or issue a written statement containing the reasons for denial of the request which shall be sent by certified mail to the person who made the request, and shall be made available to all persons requesting notification of the denial.

(2) When the statute involved provides for the promulgation of a rule by the commission, the commission shall consider the request at a public meeting prior to taking action thereon.

History: 1954 ACS 86, p. 45, Eff. Dec. 23, 1975.

R 299.3095 Requests for declaratory rulings.

Rule 95. (1) A person requesting the department to issue a declaratory ruling as to the applicability to a state of facts of a statute, rule, or order administered or issued by the department shall do so on a form provided by the department. The form is available from the office of the director in Lansing, and regional and district offices. The request shall contain the information required on the form and the signature and address of the person making the request. The request for a declaratory ruling shall comply with the substantive, procedural, and public notice requirements of the statute or rule pursuant to which it is sought. The request shall be filed either in person or by mail in the office of the director in Lansing. Within 30 days after receipt of a correctly filed request, the department shall notify the person who made the request by certified mail whether a declaratory ruling be issued and, if it is to be issued, the nature and details thereof. If the request is denied, the department shall issue a concise written statement of

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its principal reasons for denial which shall be sent by certified mail to the person who made the request. Notification of the issuance or denial of a declaratory ruling shall be made available to all persons requesting notification.

(2) The department shall send notice of requests for declaratory ruling to any person who requests in writing to be so notified. A person desiring to receive such notice shall submit his request annually.

(3) The department shall make a compilation of the declaratory rulings which shall be available to the public.

History: 1954 ACS 86, p. 45, Eff. Dec. 23, 1975.

R 299.3099 Rescission.

Rule 99. R 299.401 to R 299.408 of the Michigan Administrative Code of 1954, appearing on pages 1930 and 1931 of the 1954 edition of the Code, and R 299.431 to R 299.436 of the Michigan Administrative Code, appearing on pages 5474 and 5475 of the 1970-71 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 86, p. 45, Eff. Dec. 23, 1975.

BUREAU OF ENVIRONMENTAL PROTECTION

POLYCHLORINATED BIPHENYLS

(By authority conferred on the director of the department of natural resources by section 2 of Act No. 60 of the Public Acts of 1976, being §299.352 of the Michigan Compiled Laws)

R 299.3301 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 60 of the Public Acts of 1976, being §299.351 et seq. of the Michigan Compiled Laws.

(b) "Closed system" means electrical capacitors and transformers.

(c) "Combustible material" means a substance for which there is an incineration method available which destroys the PCB.

(d) "Department" means the department of natural resources.

(e) "Director" means the director of the department of natural resources.

(f) "Disposal" means the abandoning, depositing, or otherwise discarding of PCB, a PCB-product or a PCB-contaminated material.

(g) "Drain" means to remove, rinse out, or otherwise separate liquids from the solid materials in which they are contained, encased, or enclosed.

(h) "Incidental concentrations of PCB" means concentrations of PCB which are beyond the control of the person and and which are not the result of the person: exposing an item, product, or material to concentrations of PCB; failing to take reasonable measures to rid the item, product, or material of concentrations of PCB; or failing to use a reasonable substitute for the item, product, or material.

(i) "PCB" means the class of chlorinated biphenyl, terphenyl, higher polyphenyl, or mixtures of these compounds produced by replacing 2 or more hydrogen atoms on the biphenyl, terphenyl, or higher polyphenyl molecule with chlorine atoms. PCB shall not include chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds that have functional groups attached other than chlorine, unless that functional group on the chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof results in a compound which is determined to be dangerous to the public health, safety, and welfare under section 5 of the act.

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(j) "PCB-contaminated material" means either a PCB-product, or a material containing any concentration of PCB if that PCB resulted from the disposal of PCB, or a PCB-product via any method other than those specifically approved in these rules.

(k) "PCB-product" means a product, item, or material containing a concentration of PCB equal to or greater than 100 ppm or such lower concentration as may arise pursuant to section 3(4)(a) and (b) of the act.

(l) "Person" means an individual, firm, partnership, association, or corporation.

(m) "Ppm" means concentration in parts per million as milligrams per kilogram (mg/kg) and is calculated as follows: if PCB is distributed throughout a product, item, or material, the concentration of PCB is determined on the basis of mg of PCB per kg of the mass in which the PCB is distributed; if PCB is a constituent of only a portion of a product, item, or material, the concentration of PCB is determined on the basis of mg of PCB per kg of only that portion of the product, item, or material in which the PCB is a constituent. For example, if PCB is a constituent of a dielectric fluid which is in a capacitor in a locomotive engine, the concentration of PCB would be determined on the basis of mg of PCB per kg of dielectric fluid.

(n) "Sell for use" or "sale for use" means the sale of PCB or a PCB-product to the ultimate buyer or consumer who will use the PCB or PCB-product for the purpose for which it was designed and manufactured. "Sell for use" does not include sales to intermediates or others who sell to persons who resell the PCB or PCB-product without using it for the purpose for which it was designed and manufactured.

(o) "Small capacitor" means an electrical capacitor containing less than 3 pounds of total PCB.

(p) "Small transformer" means an electrical transformer containing less than 3 pounds of total PCB.

(q) "Use" means to put into action or service; to avail oneself of; to carry out a purpose or action by means of, or to utilize; or to expend or consume by putting to use. PCB use includes both consumptive uses in manufacturing or other processes, as well as nonconsumptive uses adjunctive to manufacturing or other processes, such as the use of dielectric fluids in capacitors and transformers.

History: 1954 ACS 91, p. 28, Eff. Apr. 12, 1977.

R 299.3302 Compliance with other acts, statutes, and rules.

Rule 2. Compliance with these rules shall not relieve a person of that person's responsibility to conform to other Michigan and federal acts, statutes, and promulgated rules which may apply to PCB, including, but not limited to:

(a) Act No. 87 of the Public Acts of 1965, as amended, being §325.291 et seq. of the Michigan Compiled Laws.

(b) Act No. 348 of the Public Acts of 1965, as amended, being §336.11 et seq. of the Michigan Compiled Laws.

(c) Act No. 136 of the Public Acts of 1969, being §323.271 et seq. of the Michigan Compiled Laws.

(d) Act No. 245 of the Public Acts of 1929, as amended, being §323.1 et seq. of the Michigan Compiled Laws.

(e) Act No. 154 of the Public Acts of 1974, as amended, being §408.1001 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 91, p. 29, Eff. Apr. 12, 1977.

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R 299.3303 Confidentiality of information.

Rule 3. If a record, exemption application, or other document furnished to the department under requirements of these rules is certified to contain information related to production, sales figures, or to processes which are unique to the person and which would adversely affect the competitive position of the person, then that information, under the authority of section 22 of Act No. 306 of the Public Acts of 1969, being §24.222 of the Michigan Compiled Laws, shall be for the confidential use of the department only in administration of the act, unless the person expressly agrees to its publication or availability to the general public. Nothing in this rule renders data on the quantity or quality of emissions or discharges confidential.

History: 1954 ACS 91, p. 29, Eff. Apr. 12, 1977.

R 299.3304 Small capacitor and transformer exemption.

Rule 4. The use or sale of small capacitors and small transformers, or items and products containing small capacitors or transformers, in this state shall be exempt from these rules. The director shall issue voluntary guidelines for the handling and disposal of small capacitors and transformers.

History: 1954 ACS 91, p. 29, Eff. Apr. 12, 1977.

R 299.3305 Research exclusion.

Rule 5. PCB or PCB-products may be used in scientific research, analytical testing, or experimentation if approval for each such use is obtained in writing from the director or his designated representative. The director or his designated representative may waive specific portions of these rules for such uses, and may require other provisions to protect the public health, safety, and welfare.

History: 1954 ACS 91, p. 29, Eff. Apr. 12, 1977.

R 299.3306 Electric capacitor and transformer exclusion.

Rule 6. (1) PCB or a PCB-product may be sold for use and used in this state in a closed system as a dielectric fluid for an electric transformer or capacitor.

(2) A person using PCB or a PCB-product in an electric capacitor or transformer, except for small capacitors and transformers or items and products containing small capacitors or transformers exempted under R 299.3304, shall:

(a) Comply with all rules promulgated pursuant to the act.

(b) Prepare a pollution incident prevention plan (PIPP) as required by part 5 of the general rules of the water resources commission, being R 323.1151 to R 323.1169 of the Michigan Administrative Code, detailing methods for the siting, handling, and disposing of capacitors and transformers containing PCB dielectric fluid so that the public health, safety, and welfare is insured. The plan shall also include a method of identifying PCB-containing capacitors and transformers so that they can be readily recognized and differentiated from capacitors and transformers which do not contain a PCB dielectric fluid.

History: 1954 ACS 91, p. 30, Eff. Apr. 12, 1977.

R 299.3307 Exemption applications.

Rule 7. (1) A person may file an application for exemption under section 4 of the act to allow a PCB-product to be manufactured for sale, sold for use, or used by the person in that person's business in this state if the PCB-product contains incidental concentrations of PCB. The application shall be on forms provided by the director and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) Name of the PCB-product.

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(c) Concentration of PCB in the PCB-product.
(d) Proposed use and quantities of the PCB-product.
(e) Source of PCB contamination, if known.
(f) Measures to rid the PCB-product of concentrations of PCB.
(g) List of available PCB-free substitutes for the PCB-product for which the exemption is being sought.

(2) A person may file an application for exemption under section 4 of the act for continued use of an electric transformer containing residual amounts of PCB if the transformer has had the PCB drained and if the transformer has been filled with a substitute material. The application shall be on forms provided by the director and shall set forth the following information:
(a) The number, size, and location of the transformer or transformers for which an exemption is sought.
(b) Measures taken to rid the transformer of residual amounts of PCB prior to refilling.
(c) Method and location of disposal for the drained PCB and PCB-contaminated materials resulting from replacement.
(d) Name and manufacturer of substitute fluid used.
(e) Concentration in ppm of PCB remaining in the substitute transformer fluid.

(3) Transformers or PCB-products exempted under this rule but still containing residual or incidental concentrations of PCB exceeding 100 ppm or such lower maximum concentrations as may arise pursuant to section 3(4)(a) and (b) of the act are exempt from R 299.3308, R 299.3309, R 299.3311, and R 299.3312, but are not exempt from the labeling requirements of R 299.3310 or from the disposal requirements of R 299.3313 to R 299.3317.

History: 1954 ACS 91, p. 30, Eff. Apr. 12, 1977.

R 299.3308 Notice of intent to use.

Rule 8. (1) A notice of intent to use PCB or a PCB-product in a business in this state shall be filed on forms provided by the director and shall set forth the following information:
(a) Name, location, and nature of the enterprise or operation.
(b) Nature of the use of the PCB or PCB-product.
(c) Physical state, product name, and other characteristics of the PCB or PCB-product.
(d) Concentration of PCB in the PCB-product.
(e) Anticipated or known length of period of use of the PCB or PCB-product.
(f) Proposed final disposal methods for the PCB or PCB-product.
(g) Discharges to air, land, or water containing PCB and quantities of PCB discharged.

(2) Notices of intent to use shall be filed on or before April 1, 1977, for uses implemented as of the effective date of these rules, or shall be filed before a new or modified application is implemented or both. Only modified applications which increase the environmental risks attendant with the use of the PCB or PCB-product shall necessitate the filing of a new intent of use notice. A notice of intent to use need only be filed once for each general application or use category.

History: 1954 ACS 91, p. 30, Eff. Apr. 12, 1977.

R 299.3309 Annual report of use.

Rule 9. (1) Annual reports of PCB or PCB-product use in a business in this state shall be filed on forms provided by the director, shall include PCB in use, in

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inventory, and new purchases during the reporting period, and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) The amount and physical state of the PCB or PCB-product in use and in inventory.

(c) Nature of the use of the PCB or PCB-product.

(d) Concentration of PCB in the PCB-product.

(e) Disposal information as specified in R 299.3316.

(2) The annual report of PCB usage shall be filed on or before January 1, 1978, and on or before January 1 of each subsequent year.

(3) A person filing a report of sale for use or a report of manufacture for sale for a general product line, pursuant to R 299.3312, shall not file a report of use for that same product line.

History: 1954 ACS 91, p. 31, Eff. Apr. 12, 1977.

R 299.3310 Labeling of items, products, or materials; warning statement.

Rule 10. (1) PCB or a PCB-product which is manufactured for sale or sold in Michigan on or after April 1, 1977, shall be conspicuously labeled with the following statement:

"CAUTION" Contains PCB's (polychlorinated biphenyls) that are environmental contaminants. In case of leaks or spills, restrain discharge and consult manufacturer. In transportation emergencies, call national response center (800-424-8802) and Chemtrec (800-424-9300). Avoid prolonged breathing of vapors or mists, contact with eyes or skin. Disposal should be in accordance with ANSI C-107 guidelines or applicable state and federal statutes.

(2) Warnings, hazard statements, and statements of fact in addition to those mandated by subrule (1) may be included on the label if the manufacturer or seller so desires.

History: 1954 ACS 91, p. 31, Eff. Apr. 12, 1977.

R 299.3311 Notice of intent to sell or manufacture.

Rule 11. (1) Notification of intent to sell for use, or to manufacture for sale, PCB or a PCB-product in this state shall be filed on forms provided by the director, and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) Nature of manufacturing process for the PCB or PCB-product.

(c) Physical state, product name, and other characteristics of the PCB-product manufactured.

(d) Concentration of PCB in the PCB-product.

(e) Anticipated or known length of time that the PCB or PCB-product will be manufactured.

(f) PCB, PCB-product, and process waste disposal methods. This requirement applies to Michigan manufacturers and sellers only.

(g) Discharges containing PCB to air, land, or water and the quantities of PCB discharged. This requirement applies to Michigan manufacturers and sellers only.

(2) Notice of intent to sell or manufacture for sale shall be filed on or before April 1, 1977, or before a new or modified PCB or PCB-product is sold or manufactured for sale in the state, or both. A person need only file a new notice of intent to sell or manufacture for sale a modified PCB or PCB-product if:

(a) There is an increase in the amount of concentration of PCB contained in the PCB-product;

(b) The manner in which the PCB is contained in the PCB-product is altered; or

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(c) The environmental risks attendant with the manufacture, sale, or use of the PCB-product are increased. A notice of intent to sell for use or to manufacture for sale need only be filed once for each general product line.

(3) A person having filed a form of intent to sell for use or to manufacture for sale shall notify the director in writing when that person no longer intends to sell for use or to manufacture for sale the product for which the person filed the intent form.

History: 1954 ACS 91, p. 31, Eff. Apr. 12, 1977.

R 299.3312 Annual report of sale or manufacture.

Rule 12. (1) Annual reports of the sale for use or manufacture for sale in this state of a PCB or PCB-product shall be filed on forms supplied by the director, and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) The amount and types of PCB and PCB-products manufactured or sold for use in Michigan.

(c) Nature of the manufacturing process or operation involving PCB or PCB-products.

(d) Final PCB-products and their expected or known use.

(e) PCB concentrations in original material, final products, and wastes.

(f) Disposal information as specified in R 299.3316.

(2) Annual reports of the sale for use or manufacture for sale of PCB or a PCB-product shall be filed by January 1, 1978, and by January 1 of each subsequent year.

(3) A person filing a report of sale for use or manufacture for sale for a general product line shall not file a report of use, pursuant to R 299.3309, for that same product line.

History: 1954 ACS 91, p. 32, Eff. Apr. 12, 1977.

R 299.3313 General disposal provisions.

Rule 13. (1) PCB and PCB-contaminated materials intended for disposal shall be labeled, packaged, handled, transported, and disposed of in conformity with these rules, unless approval for alternative disposal methods is obtained in writing from the director or the designated representative of the director.

(2) An introduction of PCB or PCB-contaminated materials into surface water, groundwater, or air shall not be considered an approved method of disposal for that material. Introduction of PCB or PCB-contaminated materials into soil shall only be permitted if:

(a) Provisions are made in these rules for specific disposal methods.

(b) Approval for a specific disposal method is obtained in writing from the director or the designated representative of the director.

(3) Water, soil, or other materials which are secondarily contaminated with PCB from a transformer, or with a PCB-product exempted under R 299.3307, may be exempted from the requirements of R 299.3313 to R 299.3317. Application for this exemption shall be made on forms provided by the director and shall include:

(a) Physical state, description, and quantity of contaminated materials.

(b) Concentrations of PCB in the contaminated materials.

(c) Historical trend of PCB concentrations in the air, water, soil, or other materials.

(d) Measures taken to prevent entry of PCB into the air, water, soil, or other materials.

(e) Measures taken to rid the air, water, soil, or other materials of PCB.

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(f) If water is secondarily contaminated, identification of the area to which it is to be discharged.

History: 1954 ACS 91, p. 32, Eff. Apr. 12, 1977.

R 299.3314 Labeling for disposal.

Rule 14. All containers used to store PCB or PCB-contaminated materials prior to disposal, or used for transportation of PCB or PCB-contaminated materials to a disposal site, shall be labeled pursuant to R 299.3310.

History: 1954 ACS 91, p. 32, Eff. Apr. 12, 1977.

R 299.3315 Storage, handling, and transportation of PCB or PCB-contaminated materials intended for disposal.

Rule 15. (1) All containers used to store or transport PCB or PCB-contaminated materials which are awaiting disposal shall be adequate to prevent PCB from leaving the container through spillage, leakage, or vaporization.

(2) PCB and PCB-contaminated materials shall be transported in either their original design housing or containers not exceeding 55-gallon capacity, unless approval for an alternative method is obtained in writing from the director or the designated representative of the director.

(3) All trucks or other vehicles specifically approved by the director for use as designated bulk PCB-transporting vehicles shall be permanently labeled on both sides of the vehicle in letters not less than 2 inches high with the words "DESIGNATED PCB TRANSPORTING VEHICLE."

(4) Equipment, such as pumps, hoses, and associated equipment, used for handling PCB materials shall not be used for handling other non-PCB materials unless approval for alternative uses is obtained in writing from the director or the designated representative of the director.

History: 1954 ACS 91, p. 32, Eff. Apr. 12, 1977.

R 299.3316 Reporting on disposal of PCB or PCB-contaminated materials.

Rule 16. (1) Information on disposal of PCB and PCB-contaminated materials shall be included in the annual reports required pursuant to sections 6 and 7 of the act. The annual reports shall include the quantities, physical state, composition, PCB concentration, carrier, method of transportation, final disposal site, and disposal method for all PCB and PCB-contaminated materials disposed of during the reporting period, in addition to other information required by sections 6 and 7 of the act.

(2) A manifest supplied by the department shall accompany all shipments of PCB or PCB-contaminated materials intended for disposal. The originator of the material shall supply descriptive information including quantity, physical state, composition, and PCB concentration in the material. The originator, carrier, and person ultimately responsible for disposal of the material shall sign the manifest, supply the company name and location, and retain a copy of the manifest. The original copy of the manifest shall be forwarded to the director within 30 days after all the above parties have signed it.

History: 1954 ACS 91, p. 33, Eff. Apr. 12, 1977.

R 299.3317 Disposal methods.

Rule 17. (1) PCB-contaminated materials which are combustible materials shall be incinerated at a department-approved facility, unless approval for an alternative method of disposal is obtained in writing from the director or the designated representative of the director. Approval of incineration facilities for disposal of PCB or combustible PCB-contaminated materials shall be based on

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criteria established by the director or the designated representative of the director.

(2) PCB-contaminated materials which are not combustible materials shall be disposed of at a licensed landfill approved for PCB disposal, unless approval for an alternative method of disposal is obtained in writing from the director or the designated representative of the director. Such disposal shall be in accordance with the following:

(a) Approval of landfills for disposal of noncombustible PCB-contaminated materials shall be based on criteria established by the director or the designated representative of the director.

(b) Prior to disposal of noncombustible PCB-contaminated materials in an approved landfill, all liquid PCB which can reasonably be drained from the solids shall be so drained and disposed of in conformity with these rules, unless approval of an alternative method of disposal is obtained in writing from the director or the designated representative of the director.

History: 1954 ACS 91, p. 33, Eff. Apr. 12, 1977.

R 299.3318 Penalties.

Rule 18. A person who violates the act or these rules shall be subject to the provisions and penalties prescribed by section 9 of the act.

History: 1954 ACS 91, p. 33, Eff. Apr. 12, 1977.

R 299.3319 Reports on cost of conversion.

Rule 19. (1) A person subject to regulation under the act and actually converting from PCB to substitute compounds shall file a report on the total cost to that person of the conversion from PCB to substitute compounds. The annual conversion costs to be reported are those incremental changes in costs resulting from the conversion of PCB or a PCB-product that does not satisfy the standards set forth in the act and these rules to a substitute product that does satisfy the standards set forth in the act and these rules. These costs, expressed to the nearest thousand of dollars, include:

(a) Recurring incremental material costs.

(b) Recurring incremental labor costs which arise from changes in manpower levels, man hours, or skill levels.

(c) Research and development costs necessary to redesign PCB-products or develop substitutes for PCB.

(d) Nonrecurring costs of altering existing PCB or PCB-product production equipment.

(e) Nonrecurring costs, including financing costs, for additional equipment, building, land, or other property items necessary to convert existing PCB or PCB-product production facilities.

(f) All other significant conversion costs of a recurring or nonrecurring nature.

(2) Reports on cost of conversion shall be filed on or before January 1 of each year subsequent to the year in which actual costs of conversion were incurred.

History: 1954 ACS 91, p. 33, Eff. Apr. 12, 1977.

RESOURCE RECOVERY COMMISSION

GENERAL RULES

(By authority conferred on the department of natural resources by sections 33 and 63 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.233 and 24.263 of the Michigan Compiled Laws)

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PART 1. GENERAL PROVISIONS

R 299.5001 Purpose.

Rule 1. It is the purpose of these rules to establish policies and procedures of the resource recovery commission and the department of natural resources to implement the resource recovery act and prescribe the major functions of the commission and the department.

History: 1954 ACS 88, p. 59, Eff. June 23, 1976.

R 299.5002 Definitions.

Rule 2. (1) As used in these rules:

(a) "Commission" means the resource recovery commission of the department or its designated agent.

(b) "Department" means the department of natural resources.

(c) "Director" means the director of the department.

(d) "Environmental damage" means, in implementing the definition thereof in section 10 of the resource recovery act, a hazard or condition affecting the stable, natural environmental background of land, air, or the waters of the state.

(e) "Solid waste act" means Act No. 87 of the Public Acts of 1965, as amended, being §325.291 et seq. of the Michigan Compiled Laws.

(f) "Resource recovery act" means Act No. 366 of the Public Acts of 1974, being §299.301 et seq. of the Michigan Compiled Laws.

(g) "Waters of the state" means groundwaters, lakes, rivers and streams, and all other watercourses and waters within the confines of the state and also the Great Lakes bordering thereon.

(2) The terms defined in the resource recovery act shall have the same meaning when used in these rules.

History: 1954 ACS 88, p. 59, Eff. June 23, 1976.

PART 2. ORGANIZATION, OPERATIONS, AND PROCEDURES

R 299.5003 Commission; appointment and terms of members; vacancy; election of chairman and vice-chairman; quorum; transaction of business; executive director; legal services; recall of chairman or vice-chairman.

Rule 3. (1) The commission, created by the resource recovery act, consists of the director of the department of natural resources and the state treasurer, or their designated representatives, and 9 members, appointed by the governor who represent the general public, environmentally aware and concerned citizens, townships, cities, counties, and private enterprise engaged in solid waste management or resource recovery. Of the members first appointed, 4 shall be appointed for 1 year, 3 for 2 years, and 2 for 4 years. A vacancy occurring other than by the expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(2) The commission shall be organized to provide for annual election from its membership of a chairman and a vice-chairman. Six members constitute a quorum. All business is transacted by motion, support, and majority vote of those present and voting, including the chairman and vice-chairman, except for specific situations as may be otherwise required by law. The chairman, with approval of the commission, appoints an employee of the environmental protection branch of the department to serve as executive director to the commission. The attorney general provides the commission with legal service.

(3) Upon a satisfactory showing of wrong doing, inefficiency, neglect of duties, or unethical conduct, the chairman or vice-chairman of the commisison may be

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recalled from that respective elected office upon formal motion followed by a roll call vote with 8 members voting affirmatively therefor.

History: 1954 ACS 88, p. 59, Eff. June 23, 1976.

R 299.5004 Offices and meetings; schedule; agenda.

Rule 4. (1) The solid waste management division of the department shall maintain a central office in Lansing for the executive director.

(2) The commission shall meet at least once a month at various places in the state, either in or near Lansing, Michigan, or a pre-designated city elsewhere in the state. Each December, the commission shall post in the solid waste management division office for public inspection a schedule of its meeting dates and places for the calendar year. Changes in that schedule due to unforeseen circumstances shall be posted when established. Special additional meetings shall be held when necessary, with proper notification to directly affected persons, if any.

(3) The commission shall issue an agenda of each regular meeting at least 1 week before the meeting. It shall post a copy thereof in the solid waste management division office for public inspection, and copies are mailed to persons directly affected by matters thereon or to those requesting copies.

History: 1954 ACS 88, p. 60, Eff. June 23, 1976.

R 299.5005 Telephone votes or proxy votes prohibited; telephone poll; non-public discussions.

Rule 5. Business of the commission shall not be transacted except upon a vote publicly cast by the members of the commission who are present. Telephone votes or proxy votes shall not be permitted on any matter voted upon by the commission, except that a telephone poll of the time and location of meetings of the commission may be taken upon the discretion of the chairman.

History: 1954 ACS 88, p. 60, Eff. June 23, 1976.

R 299.5006 Availability of documents.

Rule 6. Documents of the commission shall be made available pursuant to part 6 of the general rules of the department entitled "Access to Documents," being R 299.3091 to R 299.3093 of the Michigan Administrative Code.

History: 1954 ACS 88, p. 60, Eff. June 23, 1976.

R 299.5007 Administration of resource recovery program.

Rule 7. The commission, pursuant to its authority as prescribed by the resource recovery act, shall administer a program that is designed to encourage, promote, and assist the development of resource recovery for solid waste throughout the state.

History: 1954 ACS 88, p. 60, Eff. June 23, 1976.

R 299.5008 Determination of unlawful pollution or environmental damage; proposed order and notice of hearing.

Rule 8. The commission may determine that a municipality is causing, or is about to cause, unlawful pollution or environmental damage, in which case, 2 years after the municipality has its solid waste management plan approved, the commission may develop a proposed order and notice of hearing, incorporating the proposed following actions when applicable:

(a) A specific finding of unlawful pollution or potential unlawful pollution.

(b) A specific finding of environmental damage or potential environmental damage.

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(c) A specific finding establishing that a lack of reasonable progress to implement an approved solid waste plan has not been made.

(d) Identification of all other reasons for a commission determination.

(e) Specification of a date for a written response to the proposed order.

(f) Service of the municipality of the proposed order.

History: 1954 ACS 88, p. 60, Eff. June 23, 1976.

R 299.5009 Request for declaratory ruling.

Rule 9. Request for declaratory rulings from the commission shall be pursuant to R 299.3095 of the Michigan Administrative Code.

History: 1954 ACS 88, p. 60, Eff. June 23, 1976.

R 299.5010 Hearings and informal conferences; minutes; record; hearing officer; notices; orders.

Rule 10. (1) At its meetings, the commission may hold public hearings and statutory hearings as required by law, and hold informal conferences with persons who are requesting assistance, or who are aggrieved by an action of the commission or the department initiated under the act. The commission shall keep official minutes of all meetings, and shall record verbatim all hearings and conferences. The commission, under rules adopted by the department, may employ a hearing officer to hear contested cases and to prepare a record of the proceedings and proposal for a decision including findings of fact and conclusions of law.

(2) The commission shall issue notices of determination and hearing, and shall make orders of determination and final orders of determination, as provided by law.

History: 1954 ACS 88, p. 61, Eff. June 23, 1976.

PART 3. HEARINGS

R 299.5011 Procedures.

Rule 11. Section 11 of the resource recovery act describes the procedures for hearings and contested cases. All hearing and contested case procedures are also conducted pursuant to Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws.

History: 1954 ACS 88, p. 61, Eff. June 23, 1976.

R 299.5012 Service of notices and orders; appearances.

Rule 12. (1) Service of notices of determination and hearing, orders of determination, and final orders of determination shall be made by certified mail upon the parties named in proceedings.

(2) An appearance at a hearing or proceeding held pursuant to the resource recovery act shall be in person, by a duly authorized agent, or by counsel.

History: 1954 ACS 88, p. 61, Eff. June 23, 1976.

R 299.5013 Stipulation or consent order.

Rule 13. A person cited by the commission to appear at a hearing noticed pursuant to the resource recovery act, and who desires to dispose of the contested case by stipulation or consent order, may mail to the commission, not later than 10 days before the date set for hearing, his written consent to the terms and conditions of the proposed order or other form of action as set forth in the notice of determination and hearing. Agreement between the parties on the terms and conditions of a stipulation or consent order constitutes sufficient cause for the commission to dispose of the case without further hearing.

History: 1954 ACS 88, p. 61, Eff. June 23, 1976.

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R 299.5014 Referral to hearing officer; duties of hearing officer; filing record of proceedings and proposal; copy of proposal.

Rule 14. That part of a hearing in a contested case in which testimony and evidence are to be taken may be referred to a hearing officer who shall be designated and authorized by the commission to preside at the hearing. The hearing officer shall hear the evidence and prepare a record of the proceedings and a proposal for a decision, including findings of fact and conclusions of law. The hearing officer may permit the hearing record to remain open to receive additional written testimony for a period not to exceed 2 weeks. The record of the proceedings and proposal for decision shall be filed with the commission as early as possible after completion of the hearing. A copy of the proposal for decision shall be transmitted to each member of the commission and shall be served by certified mail on all other parties to the proceedings.

History: 1954 ACS 88, p. 61, Eff. June 23, 1976.

R 299.5015 Inspection of files and records; files and records as evidence.

Rule 15. The files and records of the commission relative to the hearing specified in notices of determination and hearing, except those materials exempted by section 22 of Act No. 306 of the Public Acts of 1969, as amended, being §24.222 of the Michigan Compiled Laws, shall be available for inspection before or at hearings held by the commission or the hearing officer, and the whole or part thereof may be offered at a hearing as evidence on behalf of the commission.

History: 1954 ACS 88, p. 61, Eff. June 23, 1976.

R 299.5016 Commission hearing; time; briefs or exceptions; oral argument; final orders; findings.

Rule 16. (1) The commission shall hold a hearing not less than 4 weeks after receipt by the commission members of a hearing officer's report on the proposal for decision, and on such arguments thereon, exceptions thereto, or appeals therefrom as may be filed timely in writing by either party. To be considered at the hearing, written briefs or exceptions shall be received at the office of the executive director of the commission in Lansing not later than 2 weeks before the date set for hearing. An opportunity to present oral argument to the commission may be provided at the hearing noticed for that purpose.

(2) A certified copy of a final order of determination adopted in a contested case shall be prepared and served by certified mail on the contesting parties or their attorneys, together with the commission's finding containing a resume of the facts and grounds for decision.

(3) A final order of determination or decision of the commission following a hearing shall be conclusive unless reviewed in accordance with and subject to section 11(3) of the resource recovery act, being §299.311(3) of the Michigan Compiled Laws.

History: 1954 ACS 88, p. 61, Eff. June 23, 1976.

LAW ENFORCEMENT DIVISION

LOCAL HUNTING AND FIREARMS CONTROLS

(By authority conferred on the hunting area control committee and the commission of natural resources by sections 1, 2, and 3 of Act No. 159 of the Public Acts of 1967, and section 251 of Act No. 380 of the Public Acts of 1965, being §§317.332, 317.333, and 16.351 of the Michigan Compiled Laws)

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Regulation No. 106, Arenac county.

R 317.106.1 Sims township, portion; hunting restricted.

Rule 1. Hunting with, or the discharge of, a rifle is unlawful within the following described area in Sims township, Arenac county, except at a target range recognized and approved by the township board: Beginning at a point where the north line of Sims township intersects with the Lake Huron shoreline, T19N, R7E; thence west on the township line to the centerline of U.S. 23; thence southwesterly on U.S. 23 to Tonkey road; thence south on Tonkey road as extended to the Lake Huron shoreline; thence northeasterly along the Lake Huron shoreline to the point of beginning.

History: 1954 ACS 93, p. 24, Eff. Dec. 8, 1977.

Regulation No. 108, Barry county.

R 317.108.1 Barry township, portion; hunting prohibited.

Rule 1. Hunting with, or the discharge of, a firearm is unlawful on the Delton W. K. Kellogg school property located in sections 5 and 6, T1N, R9W, Barry township, Barry county.

History: 1954 ACS 90, p. 10, Eff. Feb. 3, 1977.

Regulation No. 111, Berrien county.

R 317.111.1 Niles township, parts of southeast portion.

Rule 1. Hunting for any wild animal or wild bird with a firearm, pellet or BB gun, or bow and arrow, or the discharge of a firearm, pellet or BB gun or bow and arrow is prohibited in that part of Niles township, Berrien county, in town 8 south, range 17 west, except the east ½ of section 12, the east ½ of section 13, the northeast ¼ of section 24 and those parts of sections 15 and 22 east of the St. Joseph river.

History: 1954 ACS 63, p. 15, Eff. Aug. 14, 1970.

Regulation No. 120, Crawford county.

R 317.120.1 Grayling township, military reservation.

Rule 1. (1) A person may not hunt for any wild animal or wild bird with a firearm or bow and arrow or discharge a firearm or bow and arrow on those parcels of land located in T26N, R4W, Grayling township, Crawford county, and within the Camp Grayling military reservation and described as follows:

(a) The northwest ¼ of the southeast ¼ of section 22.
(b) The northeast ¼ of the southwest ¼ of section 22.
(c) The north ½ of the northeast ¼ of section 28.
(d) The northeast ¼ of section 33.
(e) The southwest ¼ of the northwest ¼ of section 34.

(2) This rule shall not apply to law enforcement officers or military personnel discharging firearms while in the performance of their official duties.

History: 1954 ACS 71, p. 23, Eff. Apr. 22, 1972.

R 317.120.2 Frederic township, portion of section 25; hunting prohibited.

Rule 2. Hunting with or the discharge of a firearm is unlawful in the southeast ¼ and the east ½ of the southwest ¼ of section 25, T27N, R4W, of Frederic township, Crawford county.

History: 1954 ACS 82, p. 12, Eff. Jan. 8, 1975.

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R 317.120.3 Lovells township, sections 18, 19, and portions of sections 13 and 24; hunting with, or the discharge of, rifles prohibited.

Rule 3. Hunting with, or the discharge of, a rifle is unlawful within the following described areas in Lovells township, Crawford county: All of sections 18 and 19, T28N, R1W, and those portions of sections 13 and 24, T28N, R2W, located east of Twin Bridges road.

History: 1954 ACS 97, p. 17, Eff. Sept. 22, 1978.

Regulation No. 123, Eaton county.

R 317.123.1 Delta township, portion east of interstate highway 96; hunting restricted.

Rule 1. Hunting with, or the discharge of, a firearm other than a shotgun loaded with shot not larger than no. 2 is unlawful in that portion of Delta township, Eaton county, located east of interstate highway 96 (I-96), except at a target range recognized and approved by the township board.

History: 1954 ACS 86, p. 46, Eff. Feb. 7, 1976.

R 317.123.2 Delta township, Waverly school district sites; hunting prohibited.

Rule 2. Hunting with, or the discharge of, any firearm is unlawful within 150 yards of properties belonging to and under the control of the Waverly school district, Delta township, Eaton county, described as: the Administration building site located in the SW ¼ of section 25, T4N, R3W; the Campus and Colt sites located in sections 13 and 14, T4N, R3W; the Elmwood site located in section 11, T4N, R3W; and the Bretton Woods site located in section 12, T4N, R3W.

History: 1954 ACS 86, p. 46, Eff. Feb. 7, 1976.

Regulation No. 124, Emmet county.

R 317.124.1 Bear Creek township; portion; hunting prohibited.

Rule 1. Hunting with, or the discharge of, a rifle is unlawful in those parts of sections 3, 4, and 5, T34N, R5W, and sections 22, 27, 32, 33, 34, and 35, T35N, R5W, Bear Creek township, Emmet county, described as follows: Beginning at a point where the east city limits of the city of Petoskey intersects with Mitchell road; thence east on Mitchell road to Alcan road; thence north on Alcan road to Country Club road; thence east on Country Club road to Kolinski road; thence north on Kolinski road to Pickerel Lake road; thence west on Pickerel Lake road to U.S. highway 31; thence northeasterly on U.S. highway 31 to Shaw road; thence north on Shaw road, as extended across Round lake to Powell road; thence west on Powell road, as extended to the shore of Little Traverse bay; thence south and westerly along the shore of Little Traverse bay to the east city limits of the city of Petoskey; thence south on the east city limits of the city of Petoskey to the point of beginning, except at a target range recognized and approved by the township board.

History: 1954 ACS 89, p. 16, Eff. Dec. 2, 1976.

Regulation No. 125, Genesee county.

R 317.125.1 Fenton township.

Rule 1. Hunting for any wild animal or wild bird with a firearm, or the discharge of a firearm, is prohibited in a part of Fenton township described as that part of section 2 lying south of North Long Lake road and Wiggins road, all of section 11, that part of section 12 lying south of North Long Lake road and west of Fenton road, that part of section 13 lying west of Fenton road, all of section 14.

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that part of section 15 lying east of Torrey road, the north ½ of section 23 except the northwest ¼ of the northwest ¼, and that part of the north ½ of section 24 lying west of Fenton road, town 5 north, range 6 east, Fenton township, Genesee county.

History: 1954 ACS 56, p. 9, Eff. Nov. 14, 1968.

R 317.125.2 Fenton township, Byram lake and shoreline.

Rule 2. Hunting for migratory waterfowl with a firearm or the possession of a firearm for the purposes of hunting migratory waterfowl on the waters of Byram lake in Fenton township, Genesee county, or within 300 feet from the shore thereof is prohibited.

History: 1954 ACS 59, p. 33, Eff. Aug. 14, 1969.

R 317.125.3 Mt. Morris township, east and southeast parts.

Rule 3. Hunting for a wild animal or wild bird with a firearm, pellet gun, BB gun or bow and arrow or the discharge of a firearm, pellet gun or BB gun is prohibited in the following described area in Mt. Morris township, Genesee county: sections 1, 12 to 14, 22 to 24, 27 and 34, T8N, R6E, except those areas in sections 1 and 12 in the city of Mt. Morris and those areas in sections 23 and 34 in the city of Flint. However, target shooting is permitted in these areas at ranges approved by the township legislative body.

History: 1954 ACS 72, p. 29, Eff. July 22, 1972.

R 317.125.4 Fenton township, Silver lake; hunting prohibited.

Rule 4. Hunting with, or the discharge of, a firearm is unlawful on the waters of Silver lake and within 450 feet of the water's edge, sections 27, 28 and 33, T5N, R6E, Fenton township, Genesee county.

History: 1954 ACS 87, p. 22, Eff. Apr. 23, 1976.

R 317.125.5 Fenton township, Marl lake; hunting prohibited.

Rule 5. Hunting with, or the discharge of, a firearm is unlawful on the waters of Marl lake and within 450 feet of the water's edge, sections 32 and 33, T5N, R6E, Fenton township, Genesee county.

History: 1954 ACS 87, p. 22, Eff. Apr. 23, 1976.

R 317.125.6 Argentine township, Lobdell and Softwater lakes; hunting prohibited.

Rule 6. Hunting with, or the discharge of, a firearm is unlawful in that part of Argentine township, Genesee county, described as follows: Beginning at the intersection of the Genesee county line and Seymour road; thence north on Seymour road to Silver Lake road; thence east on Silver Lake road to Glen Hatt road; thence east on Glen Hatt road to Lobdell Lake road; thence southeast on Lobdell Lake road to Hilltop drive; thence south on Hilltop drive as extended southerly to the Genesee county line; thence west on the Genesee county line to the point of beginning.

History: 1954 ACS 88, p. 46, Eff. Dec. 18, 1975.

R 317.125.7 Flint township, portion; hunting restricted.

Rule 7. Hunting with, or the discharge of, a firearm other than a shotgun loaded with shot not larger than no. 2 is unlawful in that part of Flint township, Genesee county, west of a line described as follows: Beginning at a point where

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the south township line intersects Dye road; thence north on Dye road to M-69; thence northeasterly on M-69 to Linden road; thence north on Linden road to a point where Ryant drain crosses Linden road; thence westerly along Ryant drain to Mud creek; thence northerly along Mud creek to the north line of the NE ¼ of the SW ¼ of section 18, T7N, R6E; thence east on the north ¼ line to the east ¼ line of the SW ¼ of the NW ¼ of section 17, T7N, R6E; thence north on the east ¼ line to Calkins road; thence west on Calkins road to Mud creek; thence north on Mud creek to the north ¼ line of the SE ¼ of the SW ¼ of section 7, T7N, R6E; thence east on the north ¼ line to the west line of the NE ¼ of the SE ¼ of section 7, T7N, R6E; thence north on the west ¼ line to the north ¼ line of the NE ¼ of the SE ¼ of section 7, T7N, R6E; thence east on the north ¼ line to the east ¼ line of the west ½ of the NW ¼ of section 8, T7N, R6E; thence north on the east ¼ line to Beecher road; thence east on Beecher road as extended to I-75; thence north on I-75 to the north township line.

History: 1954 ACS 93, p. 24, Eff. Oct. 28, 1977.

R 317.125.8 Flint township, portion; hunting prohibited.

Rule 8. Hunting with, or the discharge of, a firearm is unlawful in that part of Flint township, Genesee county, east of a line described as follows: Beginning at a point where the south township line intersects Dye road; thence north on Dye road to M-69; thence northeasterly on M-69 to Linden road; thence north on Linden road to a point where Ryant drain crosses Linden road; thence westerly along Ryant drain to Mud creek; thence northerly along Mud creek to the north line of the NE ¼ of the SW ¼ of section 18, T7N, R6E; thence east on the north ¼ line to the east ¼ line of the SW ¼ of the NW ¼ of section 17, T7N, R6E; thence north on the east ¼ line to Calkins road; thence west on Calkins road to Mud creek; thence north on Mud creek to the north ¼ line of the SE ¼ of the SW ¼ of section 7, T7N, R6E; thence east on the north ¼ line to the west line of the NE ¼ of the SE ¼ of section 7, T7N, R6E; thence north on the west ¼ line to the north ¼ line of the NE ¼ of the SE ¼ of section 7, T7N, R6E; thence east on the north ¼ line to the east ¼ line of the west ½ of the NW ¼ of section 8, T7N, R6E; thence north on the east ¼ line to Beecher road; thence east on Beecher road as extended to I-75; thence north on I-75 to the north township line.

History: 1954 ACS 93, p. 24, Eff. Oct. 28, 1977.

Regulation No. 135, Iosco county.

R 317.135.1 AuSable township.

Rule 1. Hunting for any wild animal or wild bird with a firearm or bow and arrow, or the discharge of a firearm or bow and arrow, is prohibited in the northwest ¼ of section 5, and the northeast ¼ of section 6, town 23 north, range 9 east, AuSable township, Iosco county.

History: 1954 ACS 55, p. 17, Eff. Aug. 14, 1968.

Regulation No. 138, Jackson county.

R 317.138.1 Leoni township, Gillets lake, hunting prohibited.

Rule 1. Hunting with, or the discharge of, a firearm is unlawful within that part of sections 27, 28, 33 and 34, T2S, R1E, Leoni township, Jackson county, hereinafter described: Beginning at the intersection of Ann Arbor road and Ponderosa drive; thence south on Ponderosa drive to Kapok drive; thence easterly on Kapok drive to Dogwood drive; thence southerly on Dogwood drive to Viking drive; thence southerly on Viking drive and as extended, easterly to Donnely road; thence south on Donnely road to Water drive; thence easterly on Water drive as

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extended to Ambs drive; thence south on Ambs drive to Shady lane; thence northeasterly on Shady lane to Gilletts Lake road; thence north on Gilletts Lake road to Ann Arbor road; thence west to point of beginning.

History: 1954 ACS 81, p. 27, Eff. Nov. 14, 1974.

Regulation No. 139, Kalamazoo county.

R 317.139.1 Oshtemo township, parts of sections 11, 13, 14, 24, 25, and 26; hunting prohibited.

Rule 1. Hunting with, or the discharge of, a firearm is unlawful within the following described area in Oshtemo township, Kalamazoo county, except at a target range recognized and approved by the township board: Beginning at the intersection of Drake road and Parkview avenue; thence west on Parkview avenue to Atlantic avenue; thence southwesterly on Atlantic avenue to 9th street; thence north on 9th street to Erie street; thence southwest on Erie street to Chime street; thence north on Chime street to West Michigan avenue; thence northeasterly on West Michigan avenue to 9th street; thence north on 9th street to the NW corner of the SE ¼ of section 26, T2S, R12W; thence east ½ mile on the ¼ line to the NE corner of the SE ¼ of section 26, T2S, R12W; thence north ½ mile on the section line to the NW corner of section 25, T2S, R12W; thence east ½ mile on the section line to 11th street; thence north on 11th street to KL avenue; thence northwesterly on KL avenue to the SW corner of the NW ¼ of section 24, T2S, R12W; thence north ½ mile on the section line to the NW corner of section 24, T2S, R12W; thence west on the section line ½ mile to the SW corner of the SE ¼ of section 14, T2S, R12W; thence north on the ¼ line for 1 and ½ miles to the NW corner of the SE ¼ of section 11, T2S, R12W; thence east ¾ mile to the centerline of U.S. 131; thence south ½ mile on U.S. 131 to the north section line of section 13, T2S, R12W; thence east ¾ mile to Drake road; thence south on Drake road to the point of beginning.

History: 1954 ACS 91, p. 34, Eff. June 2, 1977.

R 317.139.2 Ross township, Sherman lake, hunting prohibited.

Rule 2. Hunting with, or the discharge of, a firearm is unlawful within 150 yards inland from the water's edge and on, or over, the waters of Sherman lake, sections 29 and 32, T1S, R9W, Ross township, Kalamazoo county.

History: 1954 ACS 101, p. 29, Eff. Nov. 6, 1979.

Regulation No. 147, Livingston county.

R 317.147.1 Green Oak township, parts of sections 3, 4 and 5.

Rule 1. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in those parts of sections 3, 4 and 5 of Green Oak township, Livingston county, bounded on the east by the west ⅛ line of section 3, on the south by the Chesapeake & Ohio railroad, on the west by US-23, and on the north by the Brighton-Green Oak township line.

History: 1954 ACS 59, p. 33, Eff. Aug. 14, 1969.

R 317.147.2 Green Oak township, parts of sections 21 to 23 and 26 to 28.

Rule 2. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in those parts of sections 21, 22, 23, 26, 27 and 28 of Green Oak township, Livingston county, bounded on the east by Rushton road, on the south by Nine Mile road, on the west by Marshall and Silver Lake roads, and on the north by Silverside drive and Doane road.

History: 1954 ACS 59, p. 33, Eff. Aug. 14, 1969.

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R 317.147.3 Brighton township, parts of sections 32 and 33.

Rule 3. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in those parts of sections 32 and 33 of Brighton township, Livingston county, south of Grand River road (interstate business route 96) and east of the northbound lane of US-23 expressway.

History: 1954 ACS 63, p. 15, Eff. Aug. 14, 1970.

R 317.147.4 Genoa township, parts of sections 21, 22, 27 and 28.

Rule 4. Hunting for any wild animal or wild bird with a firearm, pellet gun, BB gun or bow and arrow, or the discharge of a firearm, pellet gun, BB gun or bow and arrow is prohibited on the waters of Round, Big and Little Crooked lakes and within 500 feet of the shores thereof in sections 21, 22, 27 and 28, Genoa township, Livingston county.

History: 1954 ACS 63, p. 15, Eff. Aug. 14, 1970.

R 317.147.5 Genoa township, parts of sections 3, 4 and 9 to 11.

Rule 5. Hunting for a wild animal or wild bird with a firearm or bow and arrow or discharge of a firearm or bow and arrow is prohibited in the following described areas in Genoa township, Livingston county: beginning at the intersection of the section line between sections 10 and 11, T2N, R5E, with the centerline of Grand River road (BL-96); thence southeasterly along that road to the north and south eighth line of the southwest quarter of section 11; thence northerly along that eighth line to the east and west quarter line; thence westerly along that quarter line to Hughes road; thence northwesterly along Hughes road to the section line between sections 10 and 11; thence northerly to the section corner common to sections 2, 3, 10 and 11; thence westerly along the section line between sections 3 and 10 to the easterly north and south eighth line of section 3; thence northerly along that eighth line to the intersection with the northerly east and west eighth line of section 3; thence westerly along the northerly east and west eighth lines of sections 3 and 4 to the north and south quarter line of section 4; thence southerly along the north and south quarter lines of sections 4 and 9 to the intersection with the centerline of Grand River road (BL-96); thence southeasterly along that centerline to the point of beginning. However, target shooting is permitted in this area at ranges approved by the township legislative body.

History: 1954 ACS 72, p. 30, Eff. Sept. 6, 1972.

R 317.147.6 Marion township, Coon lake; hunting prohibited.

Rule 6. Hunting with, or the discharge of, a firearm is unlawful on the waters of Coon lake, sections 24 and 25, T2N, R4E, Marion township, Livingston county.

History: 1954 ACS 85, p. 21, Eff. Oct. 23, 1975.

R 317.147.7 Deerfield township, parts of sections 1 and 2; hunting prohibited.

Rule 7. Hunting with, or the discharge of, a firearm is unlawful in those parts of sections 1 and 2, T4N, R5E, Deerfield township, Livingston county, described as follows: beginning at a point where the Livingston county line intersects Argentine road; thence south on Argentine road to Bennett lake road; thence east on Bennett lake road to Crosby drive; thence north on Crosby drive to the Livingston county line; thence west on the Livingston county line to the point of beginning.

History: 1954 ACS 85, p. 21, Eff. Nov. 22, 1975.

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Regulation No. 150, Macomb county.

R 317.150.1 Shelby township.

Rule 1. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in that part of Shelby township, Macomb county, west of state highway M-53 and south of 25-mile road, except on state-owned land in the Rochester-Utica recreation area and except at target ranges approved by the governing body of a city, village or township.

History: 1954 ACS 55, p. 17, Eff. Aug. 14, 1968.

R 317.150.2 Clinton township, hunting prohibited.

Rule 2. Hunting with, or the discharge of, a firearm is unlawful in Clinton township, Macomb county.

History: 1954 ACS 63, p. 15, Eff. Aug. 14, 1970; 1954 ACS 72, p. 30, Eff. Sept. 14, 1972; 1954 ACS 81, p. 27, Eff. Nov. 14, 1974.

R 317.150.3 Bruce township, part of section 34.

Rule 3. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in that part of section 34, town 5 north, range 12 east, Bruce township, Macomb county, described as follows: beginning at the intersection of Earl memorial highway (M-53) and 33-mile road, westerly on 33-mile road a distance of 3,980 feet; thence southerly 2,691 feet to Gates road; thence westerly on Gates road 1,320 feet to its intersection with Camp Ground road; thence southerly on Camp Ground road to its intersection with 32-mile road, thence easterly on 32-mile road to the west city limits of Romeo; thence northerly on the west city limits of Romeo to Gates road; thence easterly on Gates road to its intersection with Earl memorial highway (M-53); thence northerly on Earl memorial highway to point of beginning.

History: 1954 ACS 66, p. 11, Eff. May 3, 1971.

R 317.150.4 Harrison township, north of and including the Clinton river.

Rule 4. Hunting with, and the discharge of, a firearm or bow and arrow is prohibited in that area north of and including the Clinton river in Harrison township, Macomb county, except under permit for target shooting as authorized by the township board. This rule shall not apply to lands owned by or under control of the department of natural resources or the United States government.

History: 1954 ACS 69, p. 47, Eff. Oct. 19, 1971.

R 317.150.5 Shelby township, parts of sections 3 to 6.

Rule 5. Hunting with, or the discharge of, a firearm, except at shooting ranges approved by the township board, is prohibited in those parts of sections 3, 4, 5 and 6, town 3 north, range 12 east, Shelby township, Macomb county, described as follows: beginning at the intersection of 26-mile road and M-53 freeway; thence southerly on M-53 freeway to its intersection with 25-mile road; thence westerly on 25-mile road and continuing westerly on the south section line of section 6, town 3 north, range 12 east, to its intersection with the west range line; thence northerly on the west range line to its intersection with the north section line of section 6, town 3 north, range 12 east; thence easterly on the section line to 26-mile road and continuing easterly on 26-mile road to point of beginning.

History: 1954 ACS 69, p. 47, Eff. Oct. 19, 1971.

R 317.150.6 Washington township, part of section 15.

Rule 6. Hunting with, or the discharge of, a firearm is prohibited in that part of section 15, town 4 north, range 12 east, Washington township, Macomb county,

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described as follows: beginning at the intersection of 30-mile road and Earl memorial highway (M-53); thence south on Earl memorial highway (M-53) to its intersection with Kilarney road; thence west on Kilarney road and continuing west on the east and west ¼ line to its intersection with the north and south ⅛ line in the northwest ¼; thence north to its intersection with 30-mile road; thence east on 30-mile road to point of beginning.

History: 1954 ACS 69, p. 48, Eff. Oct. 19, 1971.

R 317.150.7 Washington township, parts of sections 2 and 3.

Rule 7. Hunting with, or the discharge of, a firearm is prohibited in parts of sections 2 and 3, town 4 north, range 12 east, Washington township, Macomb county, described as follows: beginning at the intersection of the south village limits of the village of Romeo and Earl memorial highway (M-53); thence southerly on Earl memorial highway (M-53) to 31-mile road; thence westerly on 31-mile road to its intersection with the north and south ⅛ line in the southeast ¼ of section 3; thence northerly on the north and south ⅛ line to its intersection with the south village limits of Romeo; thence easterly on the village limits to Earl memorial highway and point of beginning.

History: 1954 ACS 69, p. 48, Eff. Oct. 19, 1971.

R 317.150.8 Washington township, parts of sections 27 to 34.

Rule 8. Hunting with, or the discharge of, a firearm, except at shooting ranges approved by the township board is prohibited in those parts of sections 27, 28, 29, 30, 31, 32, 33, and 34, town 4 north, range 12 east, Washington township, Macomb county, described as follows: beginning at the intersection of 28-mile road and Earl memorial highway (M-53); thence southwesterly on Earl memorial highway (M-53) to its intersection with (M-53) freeway; thence southerly on M-53 freeway to its intersection with 26-mile road; thence westerly on 26-mile road and continuing westerly on the south section line of section 31, town 4 north, range 12 east, to its intersection with the west range line; thence northerly on the range line to its intersection with 28-mile road; thence easterly on 28-mile road to Earl memorial highway (M-53) and point of beginning.

History: 1954 ACS 69, p. 48, Eff. Oct. 19, 1971.

R 317.150.9 Chesterfield township, south of 23-mile road.

Rule 9. Hunting with, or the discharge of, a firearm, except under permit for target shooting as authorized by the township board, is prohibited in that area south of 23-mile road in Chesterfield township, Macomb county. The provisions of this rule shall not apply to lands owned by or under control of the department of natural resources or the United States government.

History: 1954 ACS 71, p. 24, Eff. Apr. 22, 1972.

R 317.150.10 Shelby township, east of state highway M-53; hunting restricted.

Rule 10. Hunting with, or the discharge of, any firearm, other than a shotgun loaded with shot not larger than no. 2, is unlawful in that portion of Shelby township, Macomb county, located east of state highway M-53, except at a target range recognized and approved by the township board.

History: 1954 ACS 85, p. 21, Eff. Nov. 14, 1975.

Regulation No. 163, Oakland county.

R 317.163.1 Orion township.

Rule 1. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm is prohibited in sections 1, 2, 3, 10, 11, and 12.

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town 4 north, range 10 east, except the state-owned land in the Bald Mountain recreation area, Orion township, Oakland county.

History: 1954 ACS 55, p. 17, Eff. Aug. 14, 1968.

R 317.163.2 Oxford township.

Rule 2. Hunting for any wild migratory waterfowl with a firearm, bow and arrow, or slingshot, is prohibited in a part of Oxford township described as follows: that part of sections 26 and 27 west of state highway M-24, except the village of Oxford; all of section 28; that part of section 29 east of Sanders road; that part of section 33 east of Newman road; all of section 34, and that part of section 35 west of state highway M-24, all in town 5 north, range 10 east, Oxford township, Oakland county.

History: 1954 ACS 55, p. 17, Eff. Aug. 14, 1968.

R 317.163.3 Holly township.

Rule 3. Hunting for any wild animal or wild bird with a firearm or bow and arrow, or the discharge of a firearm, is prohibited in that part of sections 22 and 27, town 5 north, range 7 east, lying southerly of Quick road and northerly of Grange Hall road and easterly of the Holly village limits, all in Holly township, Oakland county.

History: 1954 ACS 56, p. 9, Eff. Nov. 14, 1968.

R 317.163.4 Commerce township, section 7, and parts of sections 6 and 8.

Rule 4. Hunting for any wild animal or wild bird with a firearm or bow and arrow, or the discharge of a firearm, except at shooting ranges approved by the township board, is prohibited in section 7, the southwest ¼ and west ½ of the southeast ¼ of section 6, and that part of section 8 lying west of the Detroit Edison power line, Commerce township, Oakland county.

History: 1954 ACS 59, p. 33, Eff. Aug. 14, 1969.

R 317.163.5 Commerce township, parts of sections 9, 10, 15, and 16.

Rule 5. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm, except on state-owned land in the southwest ¼ of the southwest ¼ of section 9 and the northwest ¼ of the northwest ¼ of section 16 and at shooting ranges approved by the township board, is prohibited in those parts of sections 9, 10, 15, and 16 of Commerce township, Oakland county, bounded on the east by South Commerce road, on the south and west by Oakley Park, Benstein and Bass Lake roads, and on the north by Sleeth and Commerce roads.

History: 1954 ACS 59, p. 33, Eff. Aug. 14, 1969.

R 317.163.6 Independence township, Walters lake.

Rule 6. Hunting for wild migratory waterfowl is prohibited on Walters lake in sections 12, 13, and 14 of Independence township, Oakland county.

History: 1954 ACS 59, p. 34, Eff. Aug. 14, 1969.

R 317.163.7 Independence township, parts of sections 20, 29, and 30.

Rule 7. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm, except at shooting ranges approved by the township board, is prohibited in those parts of sections 20, 29, and 30 of Independence township, Oakland county, bounded on the east by Ortonville road (M-15), on the south by Dixie highway (US-10), and on the west and north by White Lake road.

History: 1954 ACS 59, p. 34, Eff. Aug. 14, 1969.

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R 317.163.8 Independence township, section 33 and parts of sections 29, 31, 32, and 34.

Rule 8. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm, except at shooting ranges approved by the township board, is prohibited in those parts of sections 29, 31, 32, all of section 33, and that part of section 34 of Independence township, Oakland county, bounded on the east by Sashabaw road, on the south by the Independence-Waterford township line; on the west and north by Andersonville road from the southwest corner of section 31 to the intersection with Parkview road, Parkview and Lingor roads to Dixie highway (US-10), Dixie highway to Maybee road, and Maybee road east to Sashabaw road.

History: 1954 ACS 59, p. 34, Eff. Aug. 14, 1969.

R 317.163.9 Addison township, parts of sections 26, 27, and 28.

Rule 9. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in those parts of sections 26, 27, and 28 of Addison township, Oakland county, bounded on the east by Rochester road, on the south by Lakeville and Rochester roads and on the west by Lakeville road.

History: 1954 ACS 63, p. 15, Eff. Aug. 14, 1970.

R 317.163.10 Independence township, parts of sections 17, 20, and 21.

Rule 10. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm except at shooting ranges approved by the township board is prohibited in those parts of sections 17, 20, and 21 of Independence township, Oakland county, beginning at the northwest village limits of Clarkston, thence northwesterly on Holcomb road to interstate highway I-75, easterly along I-75 to state highway M-15 (Ortonville road), north along M-15 to Cranberry Lake road, easterly along Cranberry Lake road to Perry Lake road, southerly along Perry Lake road to Clarkston-Orion road, thence easterly along Clarkston-Orion road to Almond lane, southerly along Almond lane to Waldon road, thence westerly along Waldon road to the east village limits of Clarkston, northerly on the east village limits to the north village limits and westerly on the north village limits to point of beginning.

History: 1954 ACS 64, p. 23, Eff. July 1, 1970.

R 317.163.11 Independence township, parts of sections 34 and 35.

Rule 11. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm, except at shooting ranges approved by the township, and under permit from the township for controlled shoots and hunts on the property belonging to and under control of Chief Pontiac post memorial home, is prohibited in those parts of sections 34 and 35 of Independence township, Oakland county, beginning at the intersection of Sashabaw and Maybee roads, thence easterly on Maybee road to Clintonville road, southerly on Clintonville road to the south boundary of Independence township, thence westerly on the township line to its intersection with Sashabaw road, thence northerly on Sashabaw road to point of beginning.

History: 1954 ACS 64, p. 23, Eff. July 1, 1970.

R 317.163.12 Independence township, parts of section 28.

Rule 12. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm is prohibited on properties belonging to and under control of the camp fire girls of America described as the south ½ of the

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northeast ¼ of section 28 and the southeast ¼ of the northwest ¼ of section 28 of Independence township, Oakland county.

History: 1954 ACS 64, p. 23, Eff. July 1, 1970; 1954 ACS 64, p. 23, Eff. Aug. 31, 1970.

R 317.163.13 White Lake township, parts of sections 21, 28, and 29.

Rule 13. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm is prohibited in those parts of sections 21, 28, and 29 of White Lake township, Oakland county, beginning at the junction of the east section line of section 21 and state highway M-59 (Highland road), thence westerly on M-59 to Sunset street, southerly on Sunset street to Biscayne avenue, thence westerly on Biscayne avenue to Bogie Lake road, thence southerly on Bogie Lake road to center line of section 29, thence east on center line of section 29 and section 28 to the east section line of section 28, thence north on the east section line of section 28 and section 21 to point of beginning.

History: 1954 ACS 64, p. 24, Eff. July 1, 1970.

R 317.163.14 White Lake township, parts of sections 23 and 24.

Rule 14. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm is prohibited in those parts of sections 23 and 24 of White Lake township, Oakland county, beginning at the junction of the Huron river and state highway M-59 (Highland road), westerly on state highway M-59 (Highland road) to Hilltop drive, thence southeasterly on Hilltop drive to its end, south from end of Hilltop drive to the shores of Oxbow lake, thence southerly on the shores of Oxbow lake to the north bank of the Huron river, thence easterly and northerly along the north and west banks of the Huron river to point of beginning.

History: 1954 ACS 64, p. 24, Eff. July 1, 1970.

R 317.163.15 White Lake township, parts of sections 26, 27, 34, and 35.

Rule 15. Hunting for any wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm is prohibited in those parts of sections 26, 27, 34, and 35 of White Lake township, Oakland county, beginning at the intersection of Union Lake road and Elizabeth Lake road, westerly on Elizabeth Lake road, to Oxbow Lake road, thence southerly on Oxbow Lake road to Cedar Island road, thence southeasterly on Cedar Island road to Round Lake road, thence northerly on Round Lake road (Farnsworth road) to Union Lake road, thence northwesterly on Union Lake road to point of beginning.

History: 1954 ACS 64, p. 24, Eff. July 1, 1970.

R 317.163.16 Rose township, part of section 3.

Rule 16. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in that part of section 3, town 4 north, range 7 east, Rose township, Oakland county, described as follows: Beginning at the intersection of the north line of section 3 with the southwest right of way line of the Grand Trunk Western railroad; thence southeasterly along the right of way to a point 330 feet west of the east line of section 3; thence southerly along a line parallel and 330 feet west of the east line of section 3 to the water's edge on the south bank of Stiffs pond; thence westerly along the water's edge of Stiffs pond to the east right of way line of the Chesapeake & Ohio railroad; thence northeasterly along the east right of way line to the north line of section 3; thence easterly along the north line of section 3 to the point of beginning.

History: 1954 ACS 64, p. 24, Eff. Sept. 1, 1970.

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R 317.163.17 Milford township, parts of sections 16, 20, 21, 28 to 30 and 33, and all of sections 31 and 32.

Rule 17. Hunting for any wild animal or wild bird with a firearm or bow and arrow, or the discharge of a firearm or bow is prohibited within the defined and posted boundaries of the properties belonging to and under control of the Huron-Clinton metropolitan authority designated as the Kensington metropolitan park, being parts of sections 16, 20, 21, 28 to 30 and all of sections 31 and 32, and part of section 33, town 2 north, range 7 east, Milford township, Oakland county.

History: 1954 ACS 69, p. 48, Eff. Oct. 19, 1971.

R 317.163.18 Milford township, parts of sections 17 and 20.

Rule 18. Hunting with, or the discharge of, a firearm is prohibited in section 17 and the N ½ section 20, town 2 north, range 7 east, Milford township, Oakland county, except shotguns, flintlock or percussion cap muzzle-loading rifles .44 caliber or larger may be used during those seasons open to the taking of wild animals and wild birds. This rule shall not apply to the discharge of firearms at target ranges under permit as may be authorized by the local unit of government.

History: 1954 ACS 69, p. 48, Eff. Oct. 19, 1971.

R 317.163.19 Oakland township.

Rule 19. Hunting with, or the discharge of, a firearm is prohibited in Oakland township, Oakland county, except shotguns, flintlock or percussion cap muzzle-loading rifles .44 caliber or larger may be used during those seasons open to the taking of wild animals and wild birds. This rule shall not apply to the discharge of firearms at target ranges under permit as may be authorized by the local unit of government.

History: 1954 ACS 71, p. 24, Eff. Apr. 22, 1972.

R 317.163.20 Highland township, parts of sections 11, 12, 13, and 14.

Rule 20. Hunting for a wild animal or wild bird with a firearm or the discharge of a firearm is prohibited within the following described area of Highland township, Oakland county: beginning at the intersection of the section line between sections 2 and 11, T3N, R7E, with the centerline of Harvey lake road, thence east along that section line and continuing east on the section line between sections 1 and 12 to the east line of Highland township, south on that east line to the centerline of Highland road (M-59), thence westerly to the centerline of Duck lake road, thence northerly to the centerline of Wardlow road, thence westerly to the centerline of Harvey lake road, thence northwesterly and continuing north on the centerline of Harvey lake road to the point of beginning. However, target shooting is permitted in this area at ranges approved by the township legislative body.

History: 1954 ACS 72, p. 30, Eff. July 22, 1972.

R 317.163.21 Oakland township, parts of sections 2 and 3.

Rule 21. Hunting for a wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm or bow and arrow is prohibited within the following described area in Oakland township, Oakland county: beginning at the intersection of the centerlines or Romeo road and Rochester road, T4N, R11E, thence southerly and southwesterly on Rochester road to the intersection with the centerline of Predmore road, thence westerly 1367.31 feet, thence north 0° 59′ 40″ east, 1324.73 feet, thence south 89° 41′ 00″ east 674.30 feet, thence north along west line of section 2 to a point 450 feet lakeward of the shoreline of Cranberry lake, thence easterly, northerly and westerly along a line 450 feet lakeward of the

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shoreline of Cranberry lake to the west line of Log Cabin Club subdivision as recorded in liber 46 of plats, page 12, Oakland county records, thence north 5° 08′ 00″ west along that subdivision line as extended to the centerline of Romeo road, thence easterly on the centerline of Romeo road to the point of beginning. However, target shooting is permitted in this area at ranges approved by the township legislative body.

History: 1954 ACS 72, p. 30, Eff. July 22, 1972.

R 317.163.22 Pontiac township; parts of section 1 to 6, 8 to 14, 23 to 26, 35, and 36; hunting prohibited.

Rule 22. Hunting with, or the discharge of, a firearm is unlawful within the following described area in Pontiac township, Oakland county: Beginning at the southeast corner of section 36, T3N, R10E; thence west on the township line to the east limits of the city of Pontiac; thence north on the east limits of the city of Pontiac to the north limits of the city of Pontiac; thence west on the east and west quarterlines of sections 10, 9, and 8, to the centerline of Baldwin road, but excepting therefrom any areas in the city of Pontiac; thence northerly on the centerline of Baldwin road to the centerline of Lake Angelus road to the west township line; thence north on the west township line to the north township line; thence easterly on the north township line to the centerline of Joslyn road; thence south on the centerline of Joslyn road to the north boundary of highway I-75; thence easterly and southerly on the boundary line of I-75 to the exit of M-24; thence easterly on the M-24 exit to M-24; thence south on M-24 to Shimmons road; thence east on Shimmons road to Squirrel road; thence north on Squirrel road to Tienken road; thence east on Tienken road to the east boundary line of Pontiac township; thence south on the east Pontiac township line to Butler road; thence west on Butler road to Squirrel road; thence north on Squirrel road to University drive; thence west on University drive to I-75; thence south on I-75 to the centerline of Featherstone road; thence easterly on the centerline of Featherstone road to the centerline of Squirrel road; thence southerly on the centerline of Squirrel road to the centerline of Hamlin road; thence easterly on the centerline of Hamlin road to the east township line; thence south on the east township line to the point of beginning. Hunting with or the discharge of a firearm other than a shotgun loaded with shot not larger than no. 2 is prohibited in that part of Pontiac township not included in this description, except at a target range recognized and approved by the township board.

History: 1954 ACS 72, p. 31, Eff. July 22, 1972; 1954 ACS 89, p. 16, Eff. Dec. 1, 1976.

R 317.163.23 White Lake township, parts of sections 7 and 18.

Rule 23. Hunting for a wild animal or wild bird with a firearm or the discharge of a firearm is prohibited within the following described area in White Lake township, Oakland county: Beginning at the intersection of the section line between sections 6 and 7, T3N, R8E, and the west township line, thence east to the centerline of Ormond road, thence southerly to the centerline of England beach road, thence westerly to the centerline of Ridge road, thence southerly and westerly to the west township line, thence north on the west township line to the point of beginning. However, target shooting is permitted in this area at ranges approved by the township legislative body.

History: 1954 ACS 72, p. 31, Eff. July 22, 1972.

R 317.163.24 Commerce township, parts of sections 1 to 3 and 10 to 14.

Rule 24. Hunting for a wild animal or wild bird with a firearm or bow and arrow or discharge of a firearm or bow and arrow is prohibited within the

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following described area of Commerce township, Oakland county: Beginning at the intersection of the north township line and Bogie lake road, thence east on the north township line to the east township line, thence south on the east township line to the centerline of Richardson road, thence northwesterly and then westerly on the centerline of Richardson road to the centerline of Newton road, thence north on the centerline of Newton road to the section line between sections 11 and 14, T2N, R8E, thence west to the centerline of South Commerce road, thence northerly on the centerline of South Commerce road to the centerline of Commerce road, thence westerly on Commerce road and continuing westerly on the centerline of Sleeth road to the north and south eighth line of the northwest ¼ of section 10, thence north on that eighth line to the centerline of Commerce road, thence east on the centerline of Commerce road to the centerline of Bogie lake road, thence north on the centerline of Bogie lake road to the point of beginning. However, target shooting is permitted in this area at ranges approved by the township legislative body.

History: 1954 ACS 72, p. 31, Eff. July 22, 1972.

R 317.163.25 Highland township, Highland lake; hunting prohibited.

Rule 25. Hunting with, or the discharge of, any firearm is unlawful on the surface of Highland lake, or within 450 feet of the water's edge, section 17, T3N, R7E, Highland township, Oakland county.

History: 1954 ACS 86, p. 46, Eff. Mar. 5, 1976.

R 317.163.26 Oxford township, portion; hunting prohibited.

Rule 26. Hunting with, or the discharge of, a firearm is unlawful within the following described area of Oxford township, Oakland county: Beginning at the intersection of Seymour Lake road and Sanders road; thence south on Sanders road to Drahner road; thence east on Drahner road to Barr road; thence north on Barr road to Lakeville road; thence west on Lakeville road to Oxford road; thence south on Oxford road to Burdick street; thence west on Burdick street to Seymour Lake road to point of beginning.

History: 1954 ACS 84, p. 31, Eff. July 12, 1975.

R 317.163.27 Oxford township; hunting with centerfire rifle unlawful.

Rule 27. Hunting with, or the discharge of, a centerfire rifle is unlawful in Oxford township, Oakland county, except at a target range recognized and approved by the township board.

History: 1954 ACS 84, p. 31, Eff. July 12, 1975.

R 317.163.28 Commerce township, portion; hunting restricted.

Rule 28. Hunting with, or the discharge of, a firearm other than a shotgun loaded with shot not larger than no. 2 is unlawful in those parts of sections 16 and 21, T2N, R8E, Commerce township, Oakland county, described as follows: Beginning at the junction of Bass Lake road and Benstein road; thence south on Benstein road to Glengary road; thence west on Glengary road 1 mile; thence north on the section line dividing sections 20 and 21, T2N, R8E, 1 mile to Bass Lake road; thence east on Bass Lake road to the point of beginning.

History: 1954 ACS 91, p. 34, Eff. Mar. 17, 1977.

R 317.163.29 White Lake township, Oxbow lake; hunting prohibited.

Rule 29. Hunting with, or the discharge of, a firearm is unlawful on the waters

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of Oxbow lake, or within 450 feet of the water's edge in sections 22, 23, 26, 27, T3N, R8E, White lake township, Oakland county.

History: 1954 ACS 85, p. 21, Eff. Oct. 22, 1975.

R 317.163.30 White Lake township, Bogie lake; hunting prohibited.

Rule 30. Hunting with, or the discharge of, a firearm is unlawful on the waters of Bogie lake, or within 450 feet of the water's edge in section 33, T3N, R8E, White lake township, Oakland county.

History: 1954 ACS 85, p. 22, Eff. Oct. 22, 1975.

R 317.163.31 White Lake township, Cooley lake; hunting prohibited.

Rule 31. Hunting with, or the discharge of, a firearm is unlawful on the waters of Cooley lake, or within 450 feet of the water's edge in section 36, T3N, R8E, White lake township, Oakland county.

History: 1954 ACS 85, p. 22, Eff. Oct. 22, 1975.

R 317.163.32 White Lake township, Pontiac lake; hunting prohibited.

Rule 32. Hunting with, or the discharge of, a firearm is unlawful on the waters of Pontiac lake, except those parts of sections 11 and 14, T3N, R8E, described as follows: Beginning at the intersection of Teggerdine road and Gale road; thence easterly on Gale road for a distance of 4,000 feet; thence south to Pontiac lake road; thence west along Pontiac lake road to Teggerdine road; thence north to Gale road and the point of beginning, White lake township, Oakland county.

History: 1954 ACS 85, p. 22, Eff. Oct. 22, 1975.

R 317.163.33 Brandon township, Bald Eagle lake; hunting prohibited.

Rule 33. Hunting with, or the discharge of, a firearm is unlawful on the waters of Bald Eagle lake and within 450 feet of the water's edge, sections 19 and 30, T5N, R9E, Brandon township, Oakland county.

History: 1954 ACS 85, p. 22, Eff. Nov. 29, 1975.

R 317.163.34 Brandon township, Lake Louise, portion; hunting prohibited.

Rule 34. Hunting with, or the discharge of, a firearm is unlawful on that portion of the waters of Lake Louise and within 450 feet of that portion of the water's edge located in sections 19, 20, and 30, T5N, R9E, Brandon township, Oakland county.

History: 1954 ACS 85, p. 22, Eff. Nov. 29, 1975.

R 317.163.35 Orion township, Tommys lake; hunting prohibited.

Rule 35. Hunting with, or the discharge of, a firearm is unlawful on the waters of Tommys lake, or on the land within 450 feet of the water's edge in sections 15 and 16, T4N, R10E, Orion township, Oakland county.

History: 1954 ACS 84, p. 31, Eff. July 12, 1975.

R 317.163.36 Independence township; certain portions; hunting prohibited.

Rule 36. Hunting with, or the discharge of, a firearm is unlawful in the east ½ of section 29, the NW¼ of section 28, that area lying 450 feet east of the centerline of Chickadee lane in section 28, and all of section 26 located south of interstate highway 75 (I-75) in T4N, R9E, Independence township, Oakland county.

History: 1954 ACS 89, p. 17, Eff. Oct. 8, 1976.

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R 317.163.37 Independence township; certain portions; hunting restricted.

Rule 37. Hunting with, or the discharge of, any firearm, except a shotgun loaded with shot not larger than no. 2, is unlawful in those portions of sections 19 to 22, 27, all of sections 28 to 32, and section 36, located south of interstate highway 75 (I-75) in T4N, R9E, Independence township, Oakland county.

History: 1954 ACS 89, p. 17, Eff. Oct. 8, 1976.

R 317.163.38 Independence township; Perry Lake road; hunting prohibited.

Rule 38. Hunting with, or the discharge of, a firearm is unlawful within 1,500 feet of the centerline of that part of Perry Lake road beginning at a point common to sections 16, 17, 20, 21, T4N, R9E, thence north ½ mile; thence east ½ mile, Independence township, Oakland county.

History: 1954 ACS 89, p. 17, Eff. Oct. 8, 1976.

R 317.163.39 Milford township; portion; hunting prohibited.

Rule 39. Hunting with, or the discharge of, a firearm is unlawful in section 17 T2N, R7E, Milford township, Oakland county, bounded on the north by General Motors road; on the west by Hickory Ridge road; on the east by Garner road; and on the south by a line extending from Dawson road west to Stobart road.

History: 1954 ACS 89, p. 17, Eff. Nov. 26, 1976.

R 317.163.40 Highland township, portion; hunting restricted.

Rule 40. Hunting with, or the discharge of, a rifle, except at target ranges recognized and approved by the township board, is unlawful within the following described area in Highland township, Oakland county: Beginning at a point where Harvey Lake road intersects with M-59; thence west on M-59 to the Chesapeake and Ohio railroad tracks; thence north on the Chesapeake and Ohio railroad tracks to the north quarterline of section 22, T3N, R7E; thence east on the north quarterline of section 22, T3N, R7E, to Harvey Lake road; thence south on Harvey Lake road to the point of beginning.

History: 1954 ACS 99, p. 39, Eff. June 2, 1979.

R 317.163.41 Highland township, portion; hunting prohibited.

Rule 41. Hunting with, or the discharge of, a firearm is unlawful within the following described area in Highland township, Oakland county: Beginning at a point where Wardlow road intersects with Harvey Lake road; thence south on Harvey Lake road for 930 yards to the north quarterline of section 22, T3N, R7E; thence west on the north quarterline of section 22, T3N, R7E, to the Chesapeake and Ohio railroad tracks; thence south on the Chesapeake and Ohio railroad tracks to M-59; thence west on M-59 to Milford road; thence north on Milford road to Wardlow road; thence east on Wardlow road to the point of beginning.

History: 1954 ACS 99, p. 40, Eff. June 2, 1979.

Regulation No. 169, Otsego county.

R 317.169.1 Bagley township, parts of sections 15 and 16; hunting prohibited.

Rule 1. Hunting with, or the discharge of, a firearm, except at target ranges recognized and approved by the township board, is unlawful in parts of sections 15 and 16, T30N, R3W, Bagley township, Otsego county, described as follows: Beginning at a point where Johnson road intersects with I-75; thence north on I-75 to a point where McCoy road would intersect with I-75 if extended west; thence east on McCoy road to the junction of McCoy road, Krys road, and Osceola trail;

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thence south on Osceola trail to Johnson road; thence west on Johnson road to the point of beginning.

History: 1954 ACS 96, p. 77, Eff. July 13, 1978.

Regulation No. 170, Ottawa county.

R 317.170.1 Park township, parts of section 22, and part south of Ottawa Beach road.

Rule 1. Hunting for any wild animal or wild bird with a firearm, pellet gun, air rifle, spring propelled BB gun or bow and arrow, or the discharge of a firearm, pellet gun, air rifle, spring propelled BB gun or bow and arrow is prohibited in the east ½ of the southeast ¼ of section 22, Park township, Ottawa county, and all of the township south of Ottawa Beach road, except that hunting for waterfowl on lake Macatawa is permitted lakeward from the water's edge and a resident may hunt waterfowl from the upland of the premises where he is regularly domiciled. A resident may target practice with a firearm, pellet gun, air rifle, spring propelled BB gun or bow and arrow on premises where he is regularly domiciled.

History: 1954 ACS 63, p. 15, Eff. Aug. 14, 1970.

R 317.170.2 Park township, portions of Lake Macatawa; hunting prohibited.

Rule 2. Hunting with, or the discharge of, a firearm is unlawful on the waters of Lake Macatawa on those portions of Pine Creek bay located in the north half of section 25, T5N, R16W.

History: 1954 ACS 84, p. 31, Eff. Aug. 13, 1975.

Regulation No. 171, Presque Isle county.

R 317.171.1 Krakow township, parts of sections 23 to 26.

Rule 1. Hunting for any wild animal or wild bird with a firearm or the discharge of a firearm is prohibited in those parts of sections 23, 24, 25, and 26, town 34 north, range 7 east, Krakow township, Presque Isle county, described as follows: Beginning at the intersection of the east section line of section 23 and county highway 638, thence southerly on the east section line of section 23 to its intersection with the waters of Grand lake, thence westerly along the shore of Grand lake and following on the shore line of Grand Pointe Peninsula to the intersection with the north and south quarter line of section 23, thence northerly on the quarter line to its intersection with county highway 638, thence easterly along county highway 638 to point of beginning.

History: 1954 ACS 67, p. 23, Eff. Aug. 14, 1971.

R 317.171.2 Presque Isle township; sections 18 to 20 and part of section 17; prohibited acts.

Rule 2. The following acts are unlawful within sections 18, 19, and 20 and the SW¼ of section 17, T34N, R8E, Presque Isle township, Presque Isle county:

(a) Hunting with, or the discharge of, a firearm or bow and arrow on any public road.

(b) Hunting with, or the discharge of, a firearm other than a shotgun loaded with shot not larger than no. 2.

History: 1954 ACS 89, p. 17, Eff. Oct. 8, 1976.

Regulation No. 173, Saginaw county.

R 317.173.1 Saginaw township, portion; hunting prohibited.

Rule 1. Hunting with, or the discharge of, a firearm is unlawful within the following described area of Saginaw township, Saginaw county: Beginning at a

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point in the northeast corner of Saginaw township at the junction of interstate highway 675 and Tittabawassee road; thence west on Tittabawassee road to Mackinaw road; thence south on Mackinaw road to McCarty road; thence west on McCarty road to Mannion road; thence south on Mannion road to Shattuck road; thence west on Shattuck road to state highway M-47; thence south on M-47 to Gratiot road; thence east on Gratiot road to St. Andrews street; thence south on St. Andrews street to Michigan street; thence east on Michigan street to the Saginaw township line; thence north on the Saginaw township line to Weiss street; thence east on Weiss street to the Saginaw township line and interstate highway 675; thence north on interstate highway 675 to the point of beginning.

History: 1954 ACS 85, p. 22, Eff. Oct. 10, 1975.

R 317.173.2 Saginaw township; hunting with rifle unlawful.

Rule 2. Hunting with, or the discharge of, a rifle is unlawful in Saginaw township, Saginaw county, except at a target range recognized and approved by the township board.

History: 1954 ACS 85, p. 22, Eff. Oct. 10, 1975.

Regulation No. 174, St. Clair county.

R 317.174.1 East China township, east part.

Rule 1. Hunting for a wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm or bow and arrow is prohibited within the following described area of East China township, St. Clair county: beginning on the south line of section 36, T4N, R17E, at its intersection with the shoreline of the St. Clair river, thence westerly to the west boundary of the Port Huron and Detroit railroad, thence northerly on the west boundary to the centerline of Springborn road, thence southeasterly to the west shoreline of the Belle river, thence northerly along the shoreline to its intersection with the south boundary of private claim 243, thence northwesterly on the south boundary line to the west boundary line of private claim 243, thence northeasterly on the west boundary line to the centerline of Meisner road, thence easterly and southeasterly on the centerline of Meisner road to the west boundary of the Port Huron and Detroit railroad, thence northerly on the west boundary to the centerline of Recor road, thence southeasterly on the centerline of Recor road to the centerline of River road (M-29), thence northerly on the centerline of River road (M-29) to the east and west quarter line in section 18, thence westerly on the quarter line to the west section line of section 18, thence northerly on the section line to the intersection with the north line of section 18, thence easterly on the section line to the centerline of River road (M-29), thence northerly on the centerline of River road (M-29) to the centerline of Bree road, thence westerly on the centerline of Bree road and continuing westerly to the west shoreline of the Pine river, thence northerly along the west shoreline of the Pine river to the south city limits of the city of St. Clair, thence easterly on the city limits of the city of St. Clair to the shoreline of the St. Clair river, thence southerly along the shoreline of the St. Clair river to the point of beginning. However, target shooting is permitted in this area at ranges approved by the township legislative body.

History: 1954 ACS 72, p. 32, Eff. July 22, 1972.

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Regulation No. 181, Washtenaw county.

R 317.181.1 Pittsfield township, Washtenaw county.

Rule 1. Hunting for a wild animal or wild bird with a firearm or bow and arrow or the discharge of a firearm or bow and arrow is prohibited within the following described area in Pittsfield township, Washtenaw county: Beginning in the northeast corner of section 1, T3S, R6E; thence southerly on the east township line to the intersection with interstate 94; thence westerly to the intersection of interstate 94 and the centerline of Ellsworth road; thence westerly on the centerline of Ellsworth road to the centerline of Lohr road; thence northerly on the centerline of Lohr road to interstate 94; thence northwesterly to the north township line of Pittsfield township in section 6, T3S, R6E; thence easterly on the north township line and continuing easterly to the point of beginning. Excepted from the above described area are all lands situated within the corporate limits of the city of Ann Arbor. This rule shall not apply to the discharge of firearms at target ranges under permit as may be authorized by the local unit of government.

History: 1954 ACS 79, p. 40, Eff. Apr. 11, 1974.

R 317.181.2 Superior township, portion; hunting prohibited.

Rule 2. Hunting with, or the discharge of, a firearm is unlawful in the south ½ of section 7, bounded on the north by state highway 14, and in sections 18, 19, 29, 30, 31, 32, 34, 35, and 36, T2S, R7E, Superior township, Washtenaw county.

History: 1954 ACS 90, p. 10, Eff. Feb. 24, 1977.

R 317.181.3 Superior township, portion; hunting restricted.

Rule 3. Hunting with, or the discharge of, a firearm, other than a shotgun loaded with shot not larger than no. 2, is unlawful in sections 5, 8, 9, 25, and 33, T2S, R7E, Superior township, Washtenaw county.

History: 1954 ACS 90, p. 10, Eff. Feb. 24, 1977.

R 317.181.4 Superior township, section 17; hunting with a rifle prohibited.

Rule 4. Hunting with, or the discharge of, a rifle is unlawful in section 17, T2S, R7E, Superior township, Washtenaw county.

History: 1954 ACS 90, p. 10, Eff. Feb. 24, 1977.

Regulation No. 182, Wayne county.

R 317.182.1 Plymouth township, part east of Beck road.

Rule 1. Hunting for any wild animal or wild bird with a firearm, pellet gun, BB gun or a bow and arrow, or the discharge of a firearm, pellet gun, BB gun or bow and arrow is prohibited in that part of Plymouth township, Wayne county, east of the west boundary of Beck road. A resident may target practice with a bow and arrow on premises where he is regularly domiciled.

History: 1954 ACS 63, p. 16, Eff. Aug. 14, 1970.

R 317.182.2 Canton township, part of section 6; hunting prohibited.

Rule 2. Hunting with, or the discharge of, a firearm, except at a target range recognized and approved by the township board, is unlawful in the south ½ of section 6, T2S, R8E.

History: 1954 ACS 81, p. 27, Eff. Nov. 15, 1974.

R 317.182.3 Canton township, section 4; hunting prohibited.

Rule 3. Hunting with, or the discharge of, a firearm, except at a target range recognized and approved by the township board, is unlawful in section 4, T2S,

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R8E. Bounded on the north by Joy road, on the east by Canton Center road, on the south by Warren road and on the west by Beck road.

History: 1954 ACS 81, p. 27, Eff. Nov. 15, 1974.

R 317.182.4 Canton township, eastern portion; hunting prohibited.

Rule 4. Hunting with, or the discharge of, a firearm, except at a target range recognized and approved by the township board, is unlawful in that part of Canton township east of Canton Center road.

History: 1954 ACS 81, p. 27, Eff. Nov. 15, 1974.

R 317.182.5 Brownstown township; hunting with rifle prohibited.

Rule 5. Hunting with, or the discharge of, a rifle, except at a target range recognized and approved by the township board, is unlawful in Brownstown township. The department of natural resources may issue permits to control the depredations of birds and animals by shooting or other methods.

History: 1954 ACS 86, p. 46, Eff. Feb. 14, 1976.

R 317.182.6 Brownstown township, portion; hunting prohibited.

Rule 6. Hunting with, or the discharge of, a firearm, except at a target range recognized and approved by the township board, is unlawful within the following described area of Brownstown township: Beginning at the junction of Vreeland road and interstate highway 75; thence east on Vreeland road to state highway M-85; thence southwest on state highway M-85 to Allen road; thence south on Allen road to Woodruff road; thence west on Woodruff road to the New York Central railroad; thence northeast on the New York Central railroad to Gibraltar road; thence west on Gibraltar road as extended to interstate highway 75; thence north on interstate highway 75 to the point of beginning. The department of natural resources may issue permits to control the depredations of birds and animals by shooting or other methods.

History: 1954 ACS 86, p. 46, Eff. Feb. 14, 1976.

R 317.182.7 Brownstown township, portion; hunting prohibited.

Rule 7. Hunting with, or the discharge of, a firearm, except at a target range recognized and approved by the township board, is unlawful in that part of Brownstown township between Telegraph road and interstate highway 75. The department of natural resources may issue permits to control the depredations of birds and animals by shooting or other methods.

History: 1954 ACS 86, p. 47, Eff. Feb. 14, 1976.

MACKINAC ISLAND STATE PARK COMMISSION

R 318.90—R 318.103 Rescinded.

History: 1944 ACS 25, pp. 8-10; 1954 AC, pp. 2001-2003; rescinded 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

GENERAL RULES

(By authority conferred on the Mackinac Island state park commission by section 1 of Act No. 22 of the Public Acts of 1907, section 2 of Act No. 54 of the Public Acts of 1909, and section 3 of Act No. 355 of the Public Acts of 1927, as amended, being §§318.91, 318.82, and 318.63 of the Michigan Compiled Laws)

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PART 1. DEFINITIONS

R 318.111 Person.

Rule 1. "Person" as used in these rules shall mean person, firm, copartnership, or corporation.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 318.112 Road.

Rule 2. "Road" shall mean any thoroughfare, roadway, riding trail, or driving trail that is situated on lands that are under the jurisdiction of this commission.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 318.113 Commission.

Rule 3. "Commission" shall mean the Mackinac Island state park commission.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 318.114 Carrying passengers for hire.

Rule 4. "Carrying passengers for hire" shall mean the acts of any person transporting passengers to any point or points on the road or roads, as defined in R 318.112, for a specified monetary consideration, or acts of accepting gratuities for said purposes.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 318.115 Sight-seeing carriages.

Rule 5. "Sight-seeing carriages" shall mean horse-drawn vehicles which carry passengers for hire over prescribed routes established by the commission.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 318.116 Taxicab.

Rule 6. "Taxicab" shall mean any horse-drawn vehicle carrying passengers for hire from one point on the island to another.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 318.117 Drive yourself carriage.

Rule 7. "Drive yourself carriage" shall mean any horse-drawn vehicle for hire which is rented to another person or persons without the services of a driver being employed, engaged, provided, or suggested by the owner or operator of such carriage.

History: 1954 ACS 23, p. 19, Eff. Aug. 12, 1960.

R 318.118 Livery carriage.

Rule 8. "Livery carriage" shall mean any horse-drawn vehicle for hire transporting passengers for scenic drives charging on a time basis; that is, by the hour or fractions or multiples thereof, and not at a fixed price per passenger.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960.

R 318.119 Fort Mackinac bus.

Rule 9. "Fort Mackinac bus" shall mean any horse-drawn vehicle operated by Mackinac Island carriage tours, inc., a Michigan corporation, for transportation of passengers only from the downtown area directly to Fort Mackinac and return.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960.

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R 318.119a Hotel bus.

Rule 9a. "Hotel bus" shall mean a horse drawn vehicle licensed to a specific hotel operating over the roads of the Mackinac Island state park, and

(a) Carries hotel passengers or their guests for a charge as approved by the Mackinac Island state park commission.

(b) Operates on a fixed route or routes as designated by the Mackinac Island state park commission.

(c) Makes infrequent deviations from the designated route or routes for the convenience of hotel guests or their party.

History: 1954 ACS 33, p. 11, Eff. Feb. 14, 1963.

R 318.119b Rental bicycle.

Rule 9b. "Rental bicycle" means a bicycle furnished to a visitor or resident for use in Mackinac Island state park at a rental fee, whether that fee is separately identified or included in other charges, such as room rentals, either explicitly or implicitly.

History: 1954 ACS 77, p. 13, Eff. Dec. 13, 1973.

R 318.119c Snowmobile.

Rule 9c. "Snowmobile" means a motor driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated. It is not a vehicle which must be registered under Act No. 300 of the Public Acts of 1949, as amended, being §§257.1 to 257.923 of the Michigan Compiled Laws.

History: 1954 ACS 77, p. 13, Eff. Dec. 13, 1973.

R 318.119d Saddle horse.

Rule 19d. "Saddle horse" means a riding horse furnished to a visitor or resident for use in Mackinac Island state park at a rental fee, whether that fee is separately identified or included in other charges, such as room rentals, either explicitly or implicitly, for a period of time less than 1 week.

History: 1954 ACS 99, p. 40, Eff. May 22, 1979.

R 318.120 Drays.

Rule 20. "Drays" shall mean a horse-drawn vehicle used in the transportation of property, goods, and merchandise, either belonging to the owner of such dray or to others with or without charge, whether such charge be by single fee or established by contract.

History: 1954 ACS 33, p. 11, Eff. Feb. 14, 1963.

PART 2. REGULATIONS

R 318.121 License fee required.

Rule 21. A person shall not operate any horse-drawn vehicle carrying passengers for hire over the roads until he has been granted permission by the commission or its agent in writing and has paid an annual fee to the state as determined by the commission.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960; 1954 ACS 99, p. 40, Eff. May 22, 1979.

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R 318.122 Temporary permits.

Rule 22. (1) A person shall not operate a vehicle capable of being self-propelled or mechanically driven over the roads or within the park without written permission of the commission or its duly authorized agent. The commission, or its duly authorized agent, shall issue a temporary permit for the operation of motor-driven vehicles over the roads for such emergency or public and private work as the commission shall prescribe and approve. An application for a temporary permit shall be submitted in writing to the commission or its duly authorized agent and shall set forth fully the reasons for the request and the period of the permit. The commission has authority to require property damage and public liability insurance of any applicant in an amount sufficient, in its judgment, for adequate protection of persons and property. The superintendent shall keep a written record of all permits issued, and the commission reserves the right to revoke any permit so issued at any time, giving notice in writing to the permit holder and setting forth the reasons for the revocation.

(2) The state of Michigan or any political subdivision thereof may be permitted to operate its emergency and utility vehicles over the Mackinac Island state park roads in the normal performance of its governmental functions.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960; 1954 ACS 24, p. 8, Eff. Nov. 12, 1960; 1954 ACS 99, p. 40, Eff. May 22, 1979.

R 318.122a Hotel bus permit.

Rule 22a. Any hotel operating on Mackinac Island may apply for and be granted a permit after the payment of a fee of $1.00 to operate a hotel bus provided the Mackinac Island state park commission shall find:

(a) That the application is made by the hotel owner and the bus is to be owned and operated by such hotel owner for the convenience of hotel guests and those accompanying them.

(b) That the location of the hotel is such that it is necessary to provide transportation for guests to and from the docks.

(c) That the number of guests lodging at such hotel is such that they cannot be conveniently served at all times by taxicabs.

History: 1954 ACS 33, p. 11, Eff. Feb. 14, 1963.

R 318.122b Dray permits.

Rule 22b. All drays operating within the Mackinac Island state park shall have a permit issued by the commission, and maximum rates may be set by the commission.

History: 1954 ACS 33, p. 11, Eff. Feb. 14, 1963; 1954 ACS 99, p. 41, Eff. May 22, 1979.

R 318.123 Applications for permits.

Rule 23. An application for the right to operate a horse-drawn vehicle for hire or saddle horse for hire shall be made to the commission in writing at its Mackinac Island office.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960; 1954 ACS 99, p. 41, Eff. May 22, 1979.

R 318.124 Identification plates.

Rule 24. A person shall not operate a horse-drawn vehicle carrying passengers for hire unless his carriage or carriages are equipped with a "state permit" identification plate which shall be furnished by the commission and which shall continue to be the property of the state of Michigan.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960; 1954 ACS 99, p. 41, Eff. May 22, 1979.

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R 318.125 Routes; solicitation; services.

Rule 25. Before the beginning of each summer season, the commission shall prescribe the routes, the manner and place of passenger solicitation, and types of services to be offered by each vehicle classification.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960.

R 318.126 Classes of permits.

Rule 26. The commission shall by rule determine each class of permit.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960.

R 318.127 Violation of rules.

Rule 27. Any person violating provision of any of these rules or other conditions of the contract may have his license revoked and his right to drive any vehicle may be suspended.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960.

R 318.128 Fares and charges.

Rule 28. Before the beginning of each summer season, the commission shall, by resolution, prescribe the maximum fares of any kind and maximum authorized fees to be charged by operators of any and all licensed vehicles.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960; 1954 ACS 99, p. 41, Eff. May 22, 1979.

R 318.129 Nontransferability of state permit.

Rule 29. The "state permit" issued by the commission shall be securely and conspicuously attached to each vehicle and shall not be transferable to any other vehicle except with consent of the commission or its authorized agent.

History: 1954 ACS 23, p. 20, Eff. Aug. 12, 1960.

R 318.130 Inspection of vehicles and horses.

Rule 30. Each vehicle licensed and the horses used to draw the vehicle shall be subject to inspection by the commission or its authorized agent at any time within the discretion of the commission. Inspection shall be made for the purpose of assuring safely constructed vehicles and properly conditioned horses. The commission shall prohibit the use of any vehicle which, in its judgment, is unsafe and any horses which, in its judgment or the judgment of its duly authorized agent, are not properly safe and conditioned for the work for which the horses are being used.

History: 1954 ACS 23, p. 21, Eff. Aug. 12, 1960.

R 318.131 Operators.

Rule 31. No person shall be permitted to operate any horse-drawn vehicle carrying passengers for hire who, in the judgment of the commission or its duly authorized agent, is not competent to handle horses humanely and safely, or whose personal conduct is such as to endanger public safety or persons and/or property.

History: 1954 ACS 23, p. 21, Eff. Aug. 12, 1960.

R 318.132 Public liability and property damage insurance.

Rule 32. The commission shall require every carriage and/or its owner to carry public liability insurance against loss of life or injury or property damage in an amount to be determined by the commission at the commencement of each

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summer season. The summer season shall be defined as the months of May, June, July, August, September, and October. Any person engaged in either sight-seeing service or taxicab service during the months of November, December, January, February, March and April shall carry similar liability insurance on the carriages that are being operated during that period.

History: 1954 ACS 23, p. 21, Eff. Aug. 12, 1960.

R 318.133 Conduct of permittee's employees.

Rule 33. Any person permitted to operate vehicles under these rules shall be responsible for the conduct of his employees.

History: 1954 ACS 23, p. 21, Eff. Aug. 12, 1960.

R 318.134 Contracts with permittees.

Rule 34. The commission shall annually enter into contracts with permittees for the purpose of prescribing conditions of operation.

History: 1954 ACS 23, p. 21, Eff. Aug. 12, 1960.

R 318.135 Injunction.

Rule 35. The superintendent upon instructions from the commission or any member thereof shall, with the approval of the attorney general, apply to the circuit court of Mackinac county for injunctive relief against any person wilfully violating these rules.

History: 1954 ACS 23, p. 21, Eff. Aug. 12, 1960.

R 318.136 Number of carriage permits.

Rule 36. The commission will issue, on or before June 1 of each year, the following maximum number of annual permits for carriages-for-hire:

(a) Sight seeing carriages ..... 55 permits
(b) Taxicabs ..... 15 permits
(c) Drive-yourself carriages ..... 18 permits
(d) Livery carriages ..... 7 permits

History: 1954 ACS 24, p. 8, Eff. Nov. 12, 1960; 1954 ACS 77, p. 14, Eff. Dec. 13, 1973.

R 318.141 Scope and definitions.

Rule 41. (1) These rules govern the use of and occupancy of the Mackinac Island state park and the Michilimackinac state park.

(2) "Proper permission," as used in R 318.42 to R 318.45, means a written permit authorized by the Mackinac Island state park commission and issued by its director or authorized representative.

History: 1954 ACS 59, p. 34, Eff. Aug. 14, 1969.

R 318.142 Signs, fences, improvements, and posted lands.

Rule 42. (1) It is unlawful to post, place, or erect signs, place or distribute advertising material, erect a fence or barrier, construct or occupy improvements, or enclose state-owned lands, without proper permission.

(2) It is unlawful to move, remove, destroy, mutilate, or deface posters, notices, signs, or markers of the Mackinac Island state park commission or of any other agency of government.

(3) It is unlawful to enter, use, or occupy park lands for any purpose when they are posted against such entry, use, or occupancy, as ordered by the Mackinac Island state park commission.

History: 1954 ACS 59, p. 34, Eff. Aug. 14, 1969.

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R 318.143 Camping and hunting.

Rule 43. (1) It is unlawful to camp within the Mackinac Island state park or Michilimackinac state park.

(2) It is unlawful to hunt in Mackinac Island state park or Michilimackinac state park. It is unlawful to carry or have in possession a firearm without proper permission, unless unloaded in both barrel and magazine, to shoot an air rifle or air pistol or slingshot, and to shoot with bow and arrow.

History: 1954 ACS 59, p. 34, Eff. Aug. 14, 1969; 1954 ACS 99, p. 41, Eff. May 22, 1979.

R 318.144 Refuse and fires.

Rule 44. (1) It is unlawful to use park lands or facilities as a place to dispose of refuse, rubbish, trash, garbage, or other litter. This does not apply to refuse or garbage, resulting from legal uses of park lands, which shall be placed in proper receptacles or buried under supervision of the director.

(2) It is unlawful to build fires except in designated places or in stoves or grills as approved by an authorized representative of the Mackinac Island state park commission.

History: 1954 ACS 59, p. 35, Eff. Aug. 14, 1969.

R 318.145 Vehicles and animals.

Rule 45. (1) It is unlawful to operate a self-propelled motor or mechanically driven vehicle within the Mackinac Island state park without proper permission pursuant to R 318.22.

(2) It is unlawful to ride or lead a horse, other riding animal, or pack animal on, or to allow such animal or any animal-drawn vehicle to use or travel on, any areas deemed unsafe for such use by order of the Mackinac Island state park commission and posted against such use.

(3) It is unlawful to possess a dog unless it is under immediate control, or to have a dog within any area used as a bathing beach. Any dog found not in the possession or under the immediate control of its owner or the owner's agent, or any dog found creating a nuisance or disturbance, may be removed from the park or placed under restraint.

History: 1954 ACS 59, p. 35, Eff. Aug. 14, 1969; 1954 ACS 77, p. 14, Eff. Dec. 13, 1973; 1954 ACS 99, p. 41, Eff. May 22, 1979

R 318.145a Rental bicycle licenses.

Rule 45a. (1) The commission, upon receipt of proper application, shall issue on or before June 10 of each year annual licenses for not more than 845 rental bicycles for use in Mackinac Island state park.

(2) Licenses are nontransferable and shall be surrendered to the issuing authority upon demand if any transfer is attempted or if ownership of the licensed business is changed or altered in any way.

(3) Prior to June 10 of each year, the commission shall establish the license fees and terms and conditions under which rental bicycles may be supplied for use in the state park.

(4) A person shall not provide a rental bicycle for use in the Mackinac Island state park without a valid license prominently affixed thereto.

History: 1954 ACS 77, p. 14, Eff. Dec. 13, 1973.

R 318.145b Saddle horse licenses.

Rule 45b. (1) The commission, upon receipt of proper application, may issue, on or before June 10 of each year, annual licenses for such number of saddle

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horses for use in Mackinac Island state park as may be needed in the interest of public safety and proper service to the public.

(2) Licenses are nontransferable and shall be surrendered to the issuing authority upon demand if any transfer is attempted or if ownership of the licensed business or its location is changed or altered in any way.

(3) Prior to June 10 of each year, the commission shall establish the license fees, terms, and conditions, including the maximum rates per hour charged, under which saddle horses may be supplied for use in the state park.

History: 1954 ACS 99, p. 41, Eff. May 22, 1979.

R 318.146 Miscellaneous unlawful acts.

Rule 46. (1) It is unlawful to destroy, damage, or remove any state property, any living tree or shrub, planted grasses, or other vegetation without proper permission.

(2) It is unlawful to use state park lands for commercial purposes without proper permission. In considering whether or not permission shall be granted, the following shall be considered: interference with the safety, health, and welfare of the public; need for the service; and whether the service is a duplication of available services.

(3) It is unlawful to use a loudspeaker or public address system without proper permission. Permission shall not be granted if such system is capable of interfering with horse-drawn traffic by having the effect of frightening horses, thereby endangering the safety of passengers in such vehicles, pedestrians, bicycle riders, and others.

(4) It is unlawful to change clothing in toilet buildings or motor vehicles.

(5) It is unlawful to store or leave a boat, fish shanty, camping equipment, or other property without proper permission. Permission shall be granted by the commission or duly authorized agent, unless the storing or leaving constitutes an eyesore or a hazard to the traffic and the public.

(6) It is unlawful to enter those buildings or areas to which an admission fee is established without payment of the fee or permission given by the commission, a commissioner, the superintendent, or assistant superintendent under order of the commission. Permission normally is to be given only to persons on business with the commission, any member of the commission, or any duly authorized staff member.

(7) It is unlawful for any lessee, licensee, or concessionaire to use, construct, or occupy any building within the park not furnished with an approved dry chemical fire extinguisher. This subrule shall become effective 90 days after filing with the secretary of state.

(8) It is unlawful for any lessee, licensee, or concessionaire to exercise his privileges within the park without procuring and keeping in effect such public liability and property damage insurance as the commission may deem adequate.

History: 1954 ACS 59, p. 35, Eff. Aug. 14, 1969; 1954 ACS 99, p. 42, Eff. May 22, 1979.

R 318.147 Penalties.

Rule 47. Violation of any rule or failure to perform any act set forth in R 318.21 to R 318.34, R 318.36, or R 318.42 to R 318.46 is punishable by a fine of not more than $50.00 and costs of prosecution or by imprisonment in the county jail for not more than 60 days, or by both.

History: 1954 ACS 59, p. 35, Eff. Aug. 14, 1969; 1954 ACS 99, p. 42, Eff. May 22, 1979.

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NATURAL RESOURCES COMMISSION

WILDERNESS AND NATURAL AREAS

(By authority conferred on the natural resources commission by section 4 of Act No. 241 of the Public Acts of 1972, being §§322.754 of the Michigan Compiled Laws)

Regulation No. 2, Alger county.

R 322.2.1 Wagner Falls scenic site.

Rule 1. The following described area is proposed for rededication as a natural area under the designation of the Wagner Falls scenic site: That part of NE¼ of NW¼ Sec. 14 lying S'ly of highway M-94, 13.59 acres; that part of N½ of N½ of SW¼ of NE¼ Sec. 14 lying SW'ly of highway M-28, 5.5 acres; and all that land situated in the NW¼ of NE¼ Sec. 14, as follows: From the one-quarter corner common to Secs. 11 and 14, 560 feet S to the right-of-way line of highway M-28 which is the point of beginning; thence S on N and S one-quarter line of Sec. 14 for a distance of 760 feet to one-eighth corner; thence E'ly on N one-eighth line of Sec. 14 for a distance of 618 feet to right-of-way line of highway M-28, thence NW'ly along said right-of-way line to point of beginning, 3.53 acres; T46N, R19W, Munising township, Alger county, covering entire Wagner Falls state scenic site. Total 22.62 acres.

History: 1954 ACS 87, p. 22, Eff. May 26, 1976.

R 322.2.2 Laughing Whitefish Falls scenic site.

Rule 2. The following described area is proposed for rededication pursuant to Act No. 241 of the Public Acts of 1972, being §322.751 et seq. of the Michigan Compiled Laws, as a natural area under the designation of the Laughing Whitefish Falls scenic site: W½ and NW¼ of NE¼ Sec. 16, T46N, R22W, Rock River township, Alger county. Total 360 acres.

History: 1954 ACS 87, p. 22, Eff. May 26, 1976.

Regulation No. 11, Berrien county.

R 322.11.1 Warren Dunes nature study area.

Rule 1. The following described area is dedicated as a natural area under the designation of Warren Dunes nature study area: All the state-owned and state-leased lands in section 25, described as: W 25 acres of N½ of NE¼ except 3 acres lying N of private road; W 60 acres of N½ of SW¼; S½ of SW¼ lying W of Red Arrow highway (former US-12); and section 26, entire frl.; T6S, R20W, Lake township, Berrien county. Total 488.41 acres.

History: 1954 ACS 87, p. 23, Eff. May 26, 1976.

R 322.11.2 Warren Woods nature study area.

Rule 2. The following described area is dedicated as a natural area under the designation of Warren Woods nature study area: W½ of section 27, lying S of Warren Woods road, and N of a line 1,909 feet N of and parallel to Townline road, T7S, R20W, Chikaming township, Berrien county, administered as part of Warren Dunes state park. Total 179 acres, more or less.

History: 1954 ACS 87, p. 23, Eff. May 26, 1976.

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Regulation No. 27, Gogebic county.

R 322.27.1 Presque Isle river scenic site.

Rule 1. The following described area in the Porcupine mountains wilderness state park is rededicated as a natural area under the designation of the Presque Isle river scenic site: That part of section 4 lying W'ly of a line 100 feet E'ly of the E bank of the Presque Isle river; and that part of section 5 lying E'ly of the Presque Isle river road: T49N, R45W. That part of section 19 lying E'ly of the Presque Isle river road as extended to Lake Superior; that part of section 20 lying W'ly of a line ¼ mile E'ly of the outside bends of the Presque Isle river; that part of section 29 lying W'ly of a line ¼ mile E'ly of the outside bends of the Presque Isle river and N'ly of a line 200 feet N of the South Boundary road; that part of sections 30 & 31 lying E'ly of the Presque Isle river road, except 200 feet either side of the centerline of the South Boundary road; and that part of section 32 lying E'ly of the Presque Isle river road and W'ly of a line 100 feet E of the E bank of the Presque Isle river, T50N, R45W, Wakefield township, Gogebic county. Total scenic site area 1,465 acres.

History: 1954 ACS 87, p. 23, Eff. May 28, 1976.

R 322.27.2 Porcupine mountains wilderness area.

Rule 2. The following described area in the Porcupine mountains wilderness state park is rededicated as a wilderness area under the designation of the Porcupine mountains wilderness area: That part of section 4, lying E of a line ¼ mile E'ly of the outside bends of the Presque Isle river, T49N, R45W. Entire sections 1, 2, 10, 11 & 12; that part of sections 13, 14, 15, 16, 21 & 24 lying N of a line 200 feet N'ly of the South Boundary road; that part of section 20 lying N of a line 200 feet N'ly of the South Boundary road and E of a line ¼ mile E'ly of the outside bends of the Presque Isle river; that part of section 29 lying N of a line 200 feet N'ly of the South Boundary road and S of a line 200 feet S'ly of the South Boundary road and E of a line ¼ mile E'ly of the outside bends of the Presque Isle river; that part of Sec. 32 lying E of a line ¼ mile E'ly of the outside bends of the Presque Isle river; and section 33, S ½; including existing cabins and shelters as nonconforming uses; T50N, R45W, Wakefield township, Gogebic county. Total area in Gogebic county; 5,798.40 acres. Total wilderness area, Gogebic and Ontonagon counties combined, 40,808 acres, more or less. See R 322.66.1 for that portion of the Porcupine mountains wilderness area which lies in Ontonagon county.

History: 1954 ACS 87, p. 23, Eff. May 28, 1976.

Regulation No. 38, Jackson county.

R 322.38.1 Black Spruce Bog.

Rule 1. The following described area is dedicated as a natural area under the designation of the Black Spruce Bog nature study area: SW¼ of NE¼ section 16, T1S, R2E, Waterloo township, Jackson county. Total 40 acres.

History: 1954 ACS 87, p. 23, Eff. May 28, 1976.

Regulation No. 49, Mackinac county.

R 322.49.1 Mixed Forest natural area, Bois Blanc island.

Rule 1. The following described area is dedicated as a natural area under the designation of the Mixed Forest nature study area: Section 6, entire, except the N 1,000 feet; section 7, lots 1, 2, and 3, and all that part of lots 4 to 8 lying E'ly of the McCrea road, including Bob-Lo drive and Baseline road as nonconforming uses, township of Bois Blanc, Mackinac county. Total: 968 acres, more or less.

History: 1954 ACS 94, p. 24, Eff. Jan. 10, 1978.

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R 322.49.2 Snake Island-Mud Lake natural area, Bois Blanc island.

Rule 2. The following described area is dedicated as a natural area under the designation of Snake Island-Mud Lake nature study area: Section 26, lots 1, 2, and 3, except land commencing at section line between sections 25 and 26 on bank of Lake Huron, thence W'ly on section line 20 rods, S 21 degrees W 10 rods, thence S 79 degrees E to lake, thence N'ly along lake to point of beginning; and excepting Bob-Lo drive; township of Bois Blanc, Mackinac county. Total: 244.41 acres.

History: 1954 ACS 94, p. 24, Eff. Jan. 10, 1978.

R 322.49.3 Northshore natural area, Bois Blanc island.

Rule 3. The following described area is dedicated as a natural area under the designation of the Northshore research natural area: Section 5, lots 2 to 9, and the N 1,000 feet of section 6, including the road to Lighthouse point and Bob-Lo drive as a nonconforming use, township of Bois Blanc, Mackinac county. Total: 817.41 acres.

History: 1954 ACS 94, p. 24, Eff. Jan. 10, 1978.

R 322.49.4 Little Brevort Lake scenic site.

Rule 4. The following described area in the Mackinac state forest is dedicated as a natural area under the designation of Little Brevort Lake scenic site: southwest ¼ of northeast ¼, southeast ¼ of northwest ¼, northeast ¼ of southwest ¼ lying northerly of Edison Sault electric transmission line, government lots 1, 2, and 3 lying northerly of transmission line, southwest ¼ of southeast ¼ lying northerly of transmission line of section 23; government lots 1, 3, 4, and 5, government lot 2, except north 660 feet of section 24; north ½ of northeast ¼ lying westerly of Edison Sault electric distribution line, north ½ of northwest ¼ lying northerly of transmission line of section 25; T42N, R6W. Total of 542.40 acres.

History: 1954 ACS 99, p. 42, Eff. June 16, 1979.

Regulation No. 50, Macomb county.

R 322.50.1 Shadbush Tract nature study area.

Rule 1. The following described area is dedicated as a natural area under the designation of the Shadbush Tract nature study area: All that part of NW¼ of NE¼ and N½ of NW¼, section 29, lying W'ly of the Clinton river and N of a line 400 feet N of Hamlin road, T3N, R12E, Shelby township, Macomb county. Total approximately 70 acres.

History: 1954 ACS 87, p. 23, Eff. May 26, 1976.

Regulation No. 61, Muskegon county.

R 322.61.1 Hoffmaster wild area.

Rule 1. The following described area in the Hoffmaster state park is dedicated as a natural area under the designation of Hoffmaster wild area: T9N, R17W: section 36, part of northeast ¼ of the southeast ¼ and government lots 3 and 4 described as beginning at the southeast corner of section 36, thence north 24 degrees west 2,715 feet, thence westerly 1,925 feet, more or less, to Lake Michigan, thence southeasterly along the shoreline to the south line of section 36, thence easterly to the point of beginning. The total area in Muskegon county is 106 acres, more or less.

History: 1954 ACS 101, p. 29, Eff. Dec. 14, 1979.

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Regulation No. 63, Oakland county.

R 322.63.1 Proud Lake nature study area.

Rule 1. The following described area is dedicated as a natural area under the designation of the Proud Lake nature study area: The state-owned land in the W½ of section 21, T2N, R8E, Oakland county, lying north of Glengary road, comprising the S½ of NE¼ of NW¼, 20 acres; that part of the south 44 acres of the W½ of NW¼ lying east of creek, 19 acres; SE¼ of NW¼, 40 acres; and that part of the N½ of SW¼ lying north of Glengary road, 26 acres. Total 105 acres.

History: 1954 ACS 80, p. 14, Eff. Sept. 17, 1974.

R 322.63.2 Haven Hill natural area.

Rule 2. The following described area in the Highland state recreation area is dedicated as a natural area under the designation of Haven Hill natural area: T3N, R7E: section 24, east ½, except west 650 feet of north 300 feet and east 400 feet of south 700 feet lying south of M-59. T3N, R8E: section 19, north ½ lying south of M-59 and lying west of park entrance road, except a parcel 400 feet wide lying north of entrance road between old and new M-59, north ½ of southwest ¼, southwest ¼ of southwest ¼, except south 460 feet of west 400 feet, north ½ of southeast ¼ lying north and west of park entrance road; section 30, northwest ¼ of northwest ¼ lying north of road. The total area in Oakland county is 721.12 acres.

History: 1954 ACS 99, p. 43, Eff. May 8, 1979.

Regulation No. 66, Ontonagon county.

R 322.66.1 Porcupine mountains wilderness area.

Rule 1. The following described area in the Porcupine mountains wilderness state park is rededicated as a wilderness area under the designation of the Porcupine mountains wilderness area: Sections 5 & 16, entire; T50N, R43W. Sections 1 to 10, entire; sections 11 & 12, entire except those lands lying 200 feet on either side of the centerline of Summit Peak road; sections 14 to 18, entire; that part of sections 19 to 22, lying N'ly of a line 200 feet N of the South Boundary road; including existing shelters and cabins as nonconforming uses, T50N, R44W. Section 7, entire; section 18, entire except those lands lying 200 feet either side of highway M-107; and sections 19, 30 & 31, entire; T51N, R42W. Entire fractional township except those lands lying 200 feet either side of highway M-107; including existing shelters and cabins as nonconforming uses; T51N, R43W. Entire fractional township; including existing shelters and cabins as nonconforming uses; T51N, R44W, Carp Lake township, Ontonagon county. Total area in Ontonagon county: 35,102.62 acres. Total wilderness area, Gogebic and Ontonagon counties combined, 40,808 acres, more or less. See R 322.27.2 for that portion of the Porcupine mountains wilderness area which lies in Gogebic county.

History: 1954 ACS 87, p. 24, Eff. May 26, 1976.

R 322.66.2 Union Springs scenic site.

Rule 2. The following described area in the Porcupine mountains wilderness state park is dedicated as a natural area under the designation of the Union Springs scenic site: SW¼ of NE¼, SE¼ of NW¼, NE¼ of SW¼ and NW¼ of SE¼, Sec. 20, T51N, R42W, Carp Lake township, Ontonagon county. Total 160 acres.

History: 1954 ACS 87, p. 24, Eff. May 26, 1976.

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Regulation No. 70, Ottawa county.

R 322.70.1 Hoffmaster wild area.

Rule 1. The following described area in Hoffmaster state park is dedicated as a natural area under the designation of Hoffmaster wild area: T8N, R16W: section 6, part of the northwest ¼ described as beginning at the northwest corner of section 6, thence southerly along the west section line to a point 100 feet north of North Shore estates #4 plat, thence easterly 1,600 feet, more or less, to a point that is south 24 degrees east of the point of beginning, thence north 24 degrees west to the point of beginning. T8N, R17W: section 1, entire government lot 1 and that part of government lot 2 lying northerly of a line 100 feet north of North Shore estates #4 plat. The total area in Ottawa county is 140 acres, more or less.

History: 1954 ACS 101, p. 29, Eff. Dec. 14, 1979.

Regulation No. 71, Presque Isle county.

R 322.71.1 Besser natural area.

Rule 1. The following described area is dedicated as a natural area under the designation of the Besser natural area: Government lots 5 and 6, section 13, excepting from said government lot 5 the following 2 parcels: (1) A parcel in northwest corner thereof described as all that part of said lot 5 lying north and west of a line described as follows: Commencing at a point on west line of said lot 5, 1,050 feet north of corner common to sections 13, 14, 23 and 24, thence S 86°30′ east and at right angles to west line of said lot 5, 845.2 feet to westerly line of what is known as the Town Hall lot; N 37°15′ east along westerly line of said Town Hall lot and extending 252 feet to meander line or high water line on shore of Lake Huron; said exception containing 11.99 acres, more or less; and (2) a parcel in southwest corner thereof beginning at a point on the section line between sections 13 and 24, 325 feet, more or less, east of the section corner common to sections 13, 14, 23 and 24, the same being a point distant at a right angle 240 feet from section line between sections 23 and 24; west along the section line between sections 13 and 24 to common corner to sections 13, 14, 23 and 24; north along the section line between sections 13 and 14, 500 feet; southeasterly in a direct line to point of beginning, said exception containing 1.87 acres, more or less; government lots 1 and 2, section 24, excepting therefrom a parcel of land off the west side thereof bounded by a line beginning at a point on the section line between sections 13 and 24, 325 feet, more or less, east of corner common to sections 13, 14, 23 and 24, same being a point 240 feet distant at a right angle from the section line between sections 23 and 24; S 39°50′ east parallel with the section line between said sections 23 and 24, 1,205 feet, more or less; southeasterly along line of a 4°30′ curve to the right, 655 feet to the east and west ¼ line in said section 24, 100 feet east of ¼ stake between sections 23 and 24; west along said ¼ line 100 feet to ¼ stake between sections 23 and 24; N 39°50′ west along the section line between sections 23 and 24, 2,013 feet to the section corner common to sections 13, 14, 23 and 24; east along the section line between sections 13 and 24 to point of beginning; T33N, R8E; containing a total of 133.62 acres, more or less.

History: 1954 ACS 80, p. 14, Eff. Sept. 17, 1974.

R 322.71.2 Thompson's Harbor natural area.

Rule 2. The following described area in the Alpena state forest is dedicated as a natural area under the designation of Thompson's Harbor natural area: government lot 2 of section 11; west ½ of northeast ¼, south ½ of northwest ¼, north ½ of southwest ¼ lying northerly of State road, northwest ¼ of southeast ¼ lying

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northerly of State road, government lots 1 and 2 of section 14; T34N, R7E. Total of 260.12 acres.

History: 1954 ACS 98, p. 33, Eff. Feb. 22, 1979.

Regulation No. 72, Roscommon county.

R 322.72.1 Roscommon red pine nature study area.

Rule 1. The following described area is dedicated as a natural area under the designation of the Roscommon red pine nature study area: SE¼ of Sec. 2, T24N, R1W, in the Houghton Lake state forest, 160 acres.

History: 1954 ACS 80, p. 14, Eff. Sept. 17, 1974.

WATER RESOURCES COMMISSION

GENERAL RULES

(By authority of Act No. 245 of the Public Acts of 1929, as amended, and Act No. 197 of the Public Acts of 1952, being §323.1 et seq. and §24.101 et seq. of the Michigan Compiled Laws)

R 323.1 Rescinded.

History: 1944 ACS 32, p. 11; 1954 AC, p. 2101; 1954 ACS 31, p. 16, Eff. Aug. 14, 1962; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

R 323.2 Service of notice.

Rule 2. Service of notices of determination and hearing and of final orders of determination shall be made by registered mail upon parties named in the proceedings.

History: 1944 ACS 32, p. 11; 1954 AC, p. 2101.

R 323.3 Rescinded.

History: 1944 ACS 32, p. 11; 1954 AC, p. 2102; 1954 ACS 31, p. 16, Eff. Aug. 14, 1962; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

R 323.4 Written answer; appearance.

Rule 4. The person or persons who have been served with a notice of determination and hearing may at his option file a written answer thereto prior to the date set for hearing or at said hearing may appear and present an oral or written statement on the charges contained therein.

History: 1944 ACS 32, p. 11; 1954 AC, p. 2101.

R 323.5 Failure to appear.

Rule 5. If the person or persons who have been previously served with a notice of determination and hearing fail to appear at a noticed hearing, the commission may proceed with the hearing and determination of the case brought before it and may proceed with the making of its final order of determination.

History: 1944 ACS 32, p. 11; 1954 AC, p. 2101.

R 323.6 Rescinded.

History: 1944 ACS 32, p. 12; 1954 AC, p. 2102; 1954 ACS 31, p. 17, Eff. Aug. 14, 1962; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

R 323.7 Rescinded.

History: 1944 ACS 32, pp. 11, 12; 1954 AC, pp. 2101, 2102; 1954 ACS 31, pp. 16, 17, Eff. Aug. 14, 1962; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

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R 323.8 Public hearing; notice.

Rule 8. Prior to taking action on an application for new or substantial increase over and above the present use of waters of the state for industrial waste disposal purposes, filed under section 8b of Act No. 245 of the Public Acts of 1929, as amended, the commission may provide a public hearing at which evidence and views of all persons will be received. Public notice of the hearing will be given by the water resources commission, through publication in a newspaper having general circulation in the area concerned at least 2 weeks before the scheduled hearing date.

History: 1944 ACS 32, p. 12; 1954 AC, p. 2102.

R 323.9 State health commissioner as commission's agent.

Rule 9. The state health commissioner is designated as the commission's agent in cases involving new or substantial increase over and above the present use now made of the waters of the state for sewage disposal purposes by municipalities.

STATE OF MICHIGAN
WATER RESOURCES COMMISSION

Proceedings Against _____
_____ for Abatement of
Pollution of _____
_____

NOTICE OF DETERMINATION AND HEARING

To: _____

YOU ARE HEREBY NOTIFIED that the Water Resources Commission, after due consideration of complaints received and of investigations made, is of the opinion and has determined that you are violating the provisions of Act 245, Public Acts of 1929, as amended, in that you have failed and are failing to control the polluting content of sewage and waste discharged to _____ River / Lake / Underground water which acts create in said waters conditions injurious to _____
_____

The specific violations are as follows:

YOU ARE FURTHER NOTIFIED that the Commission has under consideration the adoption of a final order requiring you to abate said pollution on or before _____, through the construction and operation of _____, in accordance with plans to be submitted
Chief engineer of the commission
to Michigan Department of Health for approval on or before _____.

YOU ARE FURTHER NOTIFIED that a hearing on the facts and the above proposed order will be provided you and held by the Commission at _____ _____ meeting at _____, following which consideration will be given to the adoption of a final order of determination for the abatement of the pollution above described. The aforesaid hearing provides you with the opportunity to present such evidence as you desire bearing upon the matter.

The files and records of the Department of Conservation, Michigan Department of Health and the Water Resources Commission pertaining to the aforesaid violation will be available for inspection prior to or at the hearing and will be presented at the statutory hearing as evidence of said violation.

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This notice was adopted at the _____ meeting of the Commission, in accordance with the provisions of Act 245, Public Acts of 1929, as amended by Act 117, Public Acts of 1949, on motion by _____ supported by _____ and _____ carried.

PRESENT AND VOTING:

I hereby certify that the foregoing is a true copy of the Notice of Determination and Hearing adopted by the Water Resources Commission at its regular meeting on _____ at _____ , and on file in the office of the Commission.

_____
Executive secretary

WATER RESOURCES COMMISSION
RESOLUTION ADOPTING
FINAL ORDER OF DETERMINATION

_____
(Municipality or industry)

WHEREAS, this Commission at its regular meeting held on _____ 19___, adopted a motion to summon representatives of the _____ to a statutory hearing on a proposed order requiring the _____ to abate its pollution of the _____ by _____ 19___, in accordance with plans to be submitted for approval as required by law, on or before _____ 19___; and

(Municipality or industry)

(River / Lake / Underground water)

WHEREAS, notice of the action of the Commission was served upon the _____ and the statutory hearing was held on _____ 19___, at _____ , at which hearing the _____ was represented by _____ ; and

(Municipality or industry)

(Municipality or industry)

WHEREAS, at said statutory hearing the _____

(Municipality or industry)

(Summary of statement presented by municipality or industry.)

now therefore

BE IT RESOLVED, by the Commission, at its regular meeting held this _____ day of _____ 19___, that the attached Final Order of Determination against the _____ for abatement of its pollution of the _____

(Municipality or industry)

(River / Lake / Underground waters) be and the same is hereby adopted by this Commission under the provisions of Act 245, Public Acts of 1929, as amended by Act 117, Public Acts of 1949, on motion by _____, supported by _____, and _____ carried.

PRESENT AND VOTING:

STATE OF MICHIGAN
WATER RESOURCES COMMISSION

PROCEEDINGS AGAINST THE _____ _____ FOR ABATEMENT OF POLLUTION OF _____

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FINAL ORDER OF DETERMINATION

1. Findings of Fact
The Water Resources Commission hereby finds _____

2. Conclusions of Law

3. Order
The _____ is hereby directed and ordered to

This order, adopted by the Water Resources Commission under the authority of and in accordance with the provisions of Act 245, Public Acts of 1929, as amended by Act 117, Public Acts of 1949, is based upon a statutory hearing held _____

STATE OF MICHIGAN
WATER RESOURCES COMMISSION

APPLICATION FOR NEW OR SUBSTANTIAL INCREASE OVER AND ABOVE THE PRESENT USE NOW MADE OF THE WATERS OF THE STATE FOR WASTE DISPOSAL PURPOSES (INDUSTRY)

Applicant, _____, a _____ Corporation represents as follows, that,

1. The nature of the contemplated expansion is _____ new development _____ to be located at _____
2. The total estimated water requirement is _____
3. Source of water to be used is from:
   a. Underground supply, amount and uses _____
   b. Surface supply, name of source, amount and uses _____
4. The proposed points of waste discharge are _____
5. The estimated daily waste volume is _____
6. A fair statement of the characteristics of the waste as produced is:
   a. Bacterial _____
   b. Physical _____
   c. Chemical _____
   d. Other _____

Submitted in accordance with Act 245, Public Acts of 1929, as amended by Act 117, Public Acts of 1949.

Date _____

_____
(Signed)

Note: If waste treatment or control facilities are offered as accompanying this application, please describe on reverse side and indicate proposed date of completion.

History: 1944 ACS 32, p. 12; 1954 AC, p. 2102.

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R 323.10—R 323.14 Rescinded.

History: 1954 ACS 10, p. 9, Eff. June 14, 1957; 1954 ACS 12, p. 31, Eff. Nov. 21, 1957; 1954 ACS 15, p. 5, Eff. Aug. 14, 1958; 1954 ACS 23, p. 21, Eff. Aug. 12, 1960; 1954 ACS 47, pp. 17, 18, Eff. Aug. 14, 1966; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

WASTE TREATMENT PLANT OPERATORS

R 323.21—R 323.29

Editor's note: Transferred to R 323.1251—R 323.1259.

R 323.41—R 323.52

Editor's note: Transferred to R 323.1231—R 323.1242.

R 323.101 Rescinded.

History: 1954 ACS 23, p. 24, Eff. Aug. 12, 1960; 1954 ACS 31, p. 17, Eff. Aug. 14, 1962; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

FLOOD PLAIN CONTROL

R 323.201—R 323.205 Rescinded.

History: 1954 ACS 62, pp. 18, 19, Eff. May 18, 1970; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

POLLUTION FROM WATERCRAFT

R 323.501—R 323.509 Rescinded.

History: 1954 ACS 55, p. 18, Eff. Aug. 14, 1968; rescinded 1954 ACS 71, p. 24, Eff. Apr. 8, 1972.

STATE GRANTS FOR SEWAGE TREATMENT FACILITIES

R 323.901—R 323.913 Rescinded.

History: 1954 ACS 52, pp. 36-40, Eff. Nov. 15, 1967; rescinded 1954 ACS 72, p. 33, Eff. June 22, 1972.

GENERAL RULES

TABLE OF CONTENTS AND AUTHORITIES

By authority conferred on the water resources commission as follows:

Part 1. General Provisions ..... R 323.1001—R 323.1009
Section 33 of Act No. 306 of the Public Acts of 1969, being §24.233 of the Michigan Compiled Laws.
Part 2. Organization, Operations and Procedures ..... R 323.1011—R 323.1027
Sections 33 and 63 of Act No. 306 of the Public Acts of 1969, being §§24.233 and 24.263 of the Michigan Compiled Laws.
Part 3. Hearings ..... R 323.1031—R 323.1038
Section 33 of Act No. 306 of the Public Acts of 1969, being §24.233 of the Michigan Compiled Laws.
Part 4. Water Quality Standards ..... R 323.1041—R 323.1116
Sections 2 and 5 of Act No. 245 of the Public Acts of 1929, as amended, being §§323.2 and 323.5 of the Michigan Compiled Laws.
Part 5. Spillage of Oil and Polluting Materials ..... R 323.1151—R 323.1169
Sections 2 and 5 of Act No. 245 of the Public Acts of 1929, as amended, being §§323.2 and 323.5 of the Michigan Compiled Laws.
Part 6. Cleaning Agents and Water Conditioners ..... R 323.1171—R 323.1181
Section 3 of Act No. 226 of the Public Acts of 1971, being §323.233 of the Michigan Compiled Laws.

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Part 9. Wastewater Reporting and Surveillance Fees..... R 323.1231—R 323.1242
Sections 2, 6b and 13 of Act No. 245 of the Public Acts of 1929, as amended, being §§323.2, 323.6b and 323.13 of the Michigan Compiled Laws.
Part 10. Treatment Plant Operators..... R 323.1251—R 323.1259
Section 2 of Act No. 245 of the Public Acts of 1929, as amended, being §323.2 of the Michigan Compiled Laws.
Part 11. Construction Grants for
Wastewater Treatment Works..... R 323.1271—R 323.1285
By authority conferred on the water resources commission by section 12 of Act No. 329 of the Public Acts of 1966, as last amended by Act No. 86 of the Public Acts of 1974, being §323.122 of the Michigan Compiled Laws.
Part 12. State Grants for Collecting Sewers..... R 323.1291—R 323.1306
Section 7 of Act No. 159 of the Public Acts of 1969, being §323.407 of the Michigan Compiled Laws.
Part 13. Flood Plains and Floodways..... R 323.1311—R 323.1329
By authority conferred on the department of natural resources by section 2 of Act No. 245 of the Public Acts of 1929, as amended, and Executive Reorganization Order No. 1976-1, being §§323.2 and 299.11 of the Michigan Compiled Laws.
Part 14. Shorelands..... R 323.1331—R 323.1345
Section 11 of Act No. 245 of the Public Acts of 1970, being §281.641 of the Michigan Compiled Laws.
Part 15. Iron Ore Beneficiation..... R 323.1351—R 323.1354
Sections 3 and 8 of Act No. 143 of the Public Acts of 1959, being §§323.253 and 323.258 of the Michigan Compiled Laws.
Part 17. Soil Erosion and Sedimentation Control..... R 323.1701—R 323.1714
By authority conferred on the water resources commission by section 5 of Act No. 347 of the Public Acts of 1972, being §282.105 of the Michigan Compiled Laws.
Part 21. Wastewater Discharge Permits..... R 323.2101—R 323.2160
Sections 2 and 5 of Act No. 245 of the Public Acts of 1929, as amended, being §§323.2 and 323.5 of the Michigan Compiled Laws.

PART 1. GENERAL PROVISIONS

R 323.1001 Purpose.

Rule 1. These rules are promulgated for the purpose of implementing the act creating the commission and prescribing its major functions and other acts referred to in the preceding authority paragraph.

History: 1954 ACS 72, p. 33, Eff. June 22, 1972.

R 323.1003 Definitions.

Rule 3. (1) "Commission" means the water resources commission of the department of natural resources.

(2) "Commission act" means Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.13 of the Michigan Compiled Laws.

(3) "Department" means the department of natural resources.

(4) "Person" means an individual, partnership, association, corporation or any other entity.

History: 1954 ACS 72, p. 33, Eff. June 22, 1972.

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R 323.1009 Rescission.

Rule 9. The following rules of the commission are rescinded:

(a) Rules 1, 3, 6, 7, 10 to 14, and 101, being R 323.1, R 323.3, R 323.6, R 323.7, R 323.10 to R 323.14, and R 323.101 of the Michigan Administrative Code and appearing on pages 2582 to 2584 of the 1962 Annual Supplement to the Code and pages 3642 and 3643 of the 1966 Annual Supplement to the Code.

(b) Rules entitled "Flood Plain Control," being R 323.201 to R 323.205 of the Michigan Administrative Code and appearing on pages 18 and 19 of Supplement No. 62 to the Code.

(c) Rules entitled "State Grants for Sewage Treatment Facilities," being R 323.901 to R 323.913 of the Michigan Administrative Code and appearing on pages 4167 to 4175 of the 1967 Annual Supplement to the Code.

History: 1954 ACS 72, p. 33, Eff. June 22, 1972.

PART 2. ORGANIZATION, OPERATIONS, AND PROCEDURES

R 323.1011 Organization.

Rule 11. (1) The water resources commission, created by the commission act, consists of the directors of the departments of agriculture, natural resources and public health, a designee of the highway commission, and 3 citizens of the state appointed for 3-year terms by the governor, by and with the consent of the senate, of whom 1 is from groups representative of industrial management, 1 from groups representative of municipalities, and 1 from groups representative of conservation associations or interests. Initially appointed for terms of 1, 2, and 3 years, the citizen members are now appointed 1 each year for 3-year terms ending on June 30 or on such later dates as their successors are appointed.

(2) The commission has organized to provide for annual election from its membership of a chairman and a vice-chairman. Four members constitute a quorum. All business is transacted by motion, support and majority vote of those present, including the chairman and vice-chairman. Roberts Rules of Order are followed. The commission employs an executive secretary and other staff and the attorney general provides the commission with legal service.

History: 1954 ACS 72, p. 33, Eff. June 22, 1972.

R 323.1012 Offices and meetings.

Rule 12. (1) The commission maintains central offices in the Stevens T. Mason building in Lansing, Michigan and staff field offices at Point Mouillee (near Rockwood), Lansing, Grand Rapids, Cadillac and Escanaba.

(2) The commission meets at least once a month at various places in the state, either at its meeting places in or near Lansing, Michigan or a predesignated city elsewhere in the state. Each December, the commission posts in its office for public inspection a schedule of its meeting dates and places for the following calendar year. Changes in that schedule by unforeseen circumstances are posted when established. Special, additional meetings are held when necessary, with proper notification of directly affected persons, if any. Meetings of the commission are open to the public.

(3) The commission issues an agenda of each regular meeting at least 1 week before the meeting. It posts a copy thereof in its office for public inspection and mails copies to persons directly affected by matters thereon or to those requesting copies.

History: 1954 ACS 72, p. 34, Eff. June 22, 1972.

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R 323.1014 Documents available for inspection and copying.

Rule 14. The following commission documents are available for public inspection and copying:

(a) Promulgated rules.

(b) Transcribed records of conferences, public hearings, and statutory hearings held by the commission.

(c) Hearing officers' records of proceedings, proposals for decision, and findings of fact and conclusions of law.

(d) Letter notices of impending or scheduled conferences with the commission.

(e) Minutes of commission meetings and excerpts therefrom.

(f) Notices of determination and hearing.

(g) Orders, stipulations, permits, and final orders of determination.

(h) Duplicated material reciting the actions taken under the state-federal construction grant program for municipal sewage collection and treatment.

(i) Reports filed with the commission showing the quantity and quality of liquid wastes discharged into the waters of the state.

(j) Survey reports—edited to eliminate materials exempted by subdivisions (b), (c), (d), and (f) of subsection (1) of section 22 of Act No. 306 of the Public Acts of 1969, as amended, being §24.222 of the Michigan Compiled Laws.

History: 1954 ACS 72, p. 34, Eff. June 22, 1972.

R 323.1015 Document inspection and copying procedures.

Rule 15. A person desiring to inspect or copy documents shall notify the commission thereof in writing at least 5 days before his intended inspection date and shall identify therein the specific documents he wishes to inspect or copy. He shall sign for the documents at the time of inspection and copying, shall not remove them from the commission offices and shall return them to the issuing unit at the end of the work day. Upon receipt of his written request and pledge of reimbursement, the commission may order duplication of the documents under its open-account arrangements for commercial duplication, with billing at cost direct to him. Single copies of not more than 5 three-page documents or their equivalent may be provided without charge.

History: 1954 ACS 72, p. 34, Eff. June 22, 1972.

R 323.1017 General functions.

Rule 17. The commission, through its staff, administers a broad and vigorous program of water pollution control, water planning, basic data collection, cooperation and coordination with local government in matters pertaining to flood control and beach erosion control, floodplain development control, swimmers' itch control, water use investigation, and other water resource matters of public significance. In effectuating this program, it administers the state and federal water pollution control grant programs, cooperates with the federal water resources council, United States geological survey, the United States army corps of engineers and other federal agencies. It receives and expends matching grant monies from the federal environmental protection agency and the federal water resources council. Through its staff, it maintains membership on advisory boards to the international joint commission and various committees of state, interstate and federal agency personnel.

History: 1954 ACS 72, p. 35, Eff. June 22, 1972.

R 323.1018 Specific functions.

Rule 18. The commission issues orders and permits for filling and other regulated activities in floodplains under section 2a of the commission act, as

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amended, and rules adopted thereunder, and for use of water for low grade iron ore beneficiation as provided by Act No. 143 of the Public Acts of 1959, being §§323.251 to 323.258 of the Michigan Compiled Laws. Watercraft pollution control as provided in Act No. 167 of the Public Acts of 1970, being §§323.331 to 323.342 of the Michigan Compiled Laws, and Great Lakes shoreland management programs as provided in Act No. 245 of the Public Acts of 1970, being §§281.631 to 281.645 of the Michigan Compiled Laws are also administered and implemented by the commission, as are other statutes and administrative rules.

History: 1954 ACS 72, p. 35, Eff. June 22, 1972.

R 323.1021 Declaratory rulings requests.

Rule 21. (1) A person requesting a declaratory ruling from the commission, regarding a statute, rule, or order administered thereby, shall submit in duplicate a sworn petition to the commission setting forth:

(a) The nature and purpose or reason for the request.

(b) The statute, rule, or order administered by the commission to which the request applies.

(c) The person's involvement, interest, or relationship to that statute, rule, or order.

(d) The exact subject of the ruling requested.

(2) Requests for more than 1 declaratory ruling regarding the same or different statute, rule, or order shall be submitted separately.

History: 1954 ACS 72, p. 35, Eff. June 22, 1972.

R 323.1022 Consideration and disposition of declaratory rulings requests.

Rule 22. Within 90 days after receipt of such a petition for a declaratory ruling, the commission, after consultation with staff or the attorney general if necessary, may issue a declaratory ruling directly to the person submitting the request. A declaratory ruling shall receive a majority concurrence of the commission before it is issued to the interested person.

History: 1954 ACS 72, p. 35, Eff. June 22, 1972.

R 323.1025 Hearings and informal conferences.

Rule 25. (1) At its meetings, the commission holds public hearings and statutory hearings as required by law and holds informal conferences with persons who are experiencing water pollution control problems resulting from their discharge to the waters of the state or who are affected by such discharges. It keeps minutes of all meetings and records verbatim all hearings and conferences, transcribing the records thereof. The commission, under rules adopted by it, employs a hearing officer to hear contested cases and to prepare a record of the proceedings and proposal for a decision including findings of fact and conclusions of law.

(2) The commission issues notices of determination and hearing and makes orders of determination and final orders of determination, as provided by law.

History: 1954 ACS 72, p. 35, Eff. June 22, 1972.

R 323.1027 Injunctions against waste discharges.

Rule 27. The executive secretary of the commission is designated by the commission as its representative to seek the initiation of injunctive procedures by the department of the attorney general to prevent or abate the release of waste discharges from industrial or commercial processing operations to the waters of

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the state when the pollution injuries described in subdivision (a) of section 6 of the commission act, as amended, occur or are imminent through failure or bypassing of waste treatment or control facilities.

History: 1954 ACS 72, p. 35, Eff. June 22, 1972.

PART 3. HEARINGS

R 323.1031 Procedures from administrative procedures act.

Rule 31. The procedure described in section 7 of the commission act is the rule of procedure for the hearing of contested cases as defined in subsection (3) of section 3 of Act No. 306 of the Public Acts of 1969, as amended, being §24.203 of the Michigan Compiled Laws.

History: 1954 ACS 72, p. 36, Eff. June 22, 1972.

R 323.1032 Service of notices and orders; appearances.

Rule 32. (1) Service of notices of determination and hearing, orders of determination, and final orders of determination shall be made by certified mail upon the parties named in proceedings conducted pursuant to sections 5a, 5b, 6b, 7, 8, or 13 of the commission act.

(2) An appearance at a hearing or proceeding held pursuant to a section cited in subrule (1) shall be either in person, by a duly authorized agent or by counsel.

History: 1954 ACS 72, p. 36, Eff. June 22, 1972.

R 323.1033 Stipulations and consent orders.

Rule 33. A person cited by the commission to appear at a hearing noticed pursuant to the commission act, and who desires to dispose of the contested case by stipulation or consent order, may mail to the commission, not later than 10 days before the date set for hearing, his written consent to the terms and conditions of the proposed order or other form of action as set forth in the notice of determination and hearing. Agreement between the parties on the terms and conditions of a stipulation or consent order, constitutes sufficient cause for the commission to dispose of the case without further hearing.

History: 1954 ACS 72, p. 36, Eff. June 22, 1972.

R 323.1034 Hearing officer; hearings.

Rule 34. That part of a hearing in a contested case in which testimony and evidence are to be taken may be referred to a hearing officer who shall be designated and authorized by the commission to preside at the hearing. The hearing officer shall hear the evidence, prepare a record of the proceedings and a proposal for a decision, including findings of fact and conclusions of law. The record of the proceedings and proposal for decision shall be filed at the commission offices as early as possible after completion of the hearing. A copy of the proposal for decision shall be transmitted to each member of the commission and shall be served by certified mail on all other parties to the proceedings.

History: 1954 ACS 72, p. 36, Eff. June 22, 1972.

R 323.1035 Agency files and records; use in connection with hearings.

Rule 35. The files and records of the commission as specified in notices of determination and hearing, except those materials exempted by section 22 of Act No. 306 of the Public Acts of 1969, as amended, being §24.222 of the Michigan Compiled Laws, shall be available for inspection before or at hearings held by the

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commission or the hearing officer, and the whole or part thereof may be offered at a hearing as evidence on behalf of the commission.

History: 1954 ACS 72, p. 36, Eff. June 22, 1972.

R 323.1036 Commission hearings after hearing officer hearings.

Rule 36. (1) The commission shall hold a hearing not less than 4 nor more than 8 weeks after receipt by the commission members of a hearing officer's report on the proposal for decision, and on such arguments thereon, exceptions thereto or appeals therefrom as may be filed timely in writing by either party. To be considered at the hearing, written briefs or exceptions shall be received at the office of the commission in Lansing not later than 2 weeks before the date set for hearing. An opportunity to present oral argument to the commission may be provided at the hearing noticed for that purpose.

(2) A certified copy of a final order of determination adopted in a contested case shall be prepared and served by certified mail on the contesting parties or their attorneys together with the commission's finding containing a resume of the facts and grounds for decision.

History: 1954 ACS 72, p. 36, Eff. June 22, 1972.

R 323.1038 Waste disposal and floodplain matters.

Rule 38. (1) Before taking action on a written statement for a new or substantial increase over and above the present use of the waters of the state for waste disposal purposes, filed under subsection (b) of section 8 of the commission act, or on an application for a permit to occupy or fill lands in a floodplain filed under section 5b of the commission act, the commission may provide a public hearing at which evidence and views of all persons will be received thereon. The commission will give public notice of the hearing by publication in a newspaper having general circulation in the area concerned at least 2 weeks before the scheduled hearing date.

(2) The director of public health is designated as the commission's agent in cases involving new or substantial increases over and above present uses now made of the waters of the state for disposal of sewage from:

(a) Collecting sewers or treatment plants which serve the public and for which construction permits are required by Act No. 98 of the Public Acts of 1913, as amended, being §§325.201 to 325.214 of the Michigan Compiled Laws.

(b) Campgrounds for which licenses are required by Act No. 171 of the Public Acts of 1970, being §§325.651 to 325.665 of the Michigan Compiled Laws.

(c) Trailer parks for which licenses are required by Act No. 243 of the Public Acts of 1959, as amended, being §§125.1001 to 125.1097 of the Michigan Compiled Laws.

(d) Nursing homes and homes for the aged for which licenses are required by Act No. 139 of the Public Acts of 1956, as amended, being §§331.651 to 331.660 of the Michigan Compiled Laws.

(e) Hospitals for which licenses are required by Act No. 17 of the Public Acts of 1968, being §§331.411 to 331.430 of the Michigan Compiled Laws.

(3) A statement of use of the waters of the state for disposal of sewage of human origin from developments within a local governmental unit, filed by an entity other than a local unit of government, shall be cosigned by the local governmental unit. The local governmental unit shall be included by appropriate notice as a party to all proceedings and hearings involving the entity, and shall be named jointly with the entity in all orders issued as the result of the proceedings and hearings.

History: 1954 ACS 72, p. 37, Eff. June 22, 1972.

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PART 4. WATER QUALITY STANDARDS

R 323.1041 Purpose.

Rule 41. It is the purpose of the water quality standards as prescribed by these rules to establish water quality requirements applicable to the Great Lakes, their connecting waterways, and all other surface waters of the state, which shall protect the public health and welfare, enhance and maintain the quality of water, serve the purposes of United States Public Law 92-500 and the commission act; and which shall protect the quality of waters for recreational purposes, public and industrial water supplies, agriculture uses, navigation and propagation of fish, other aquatic life and wildlife.

History: 1954 ACS 77, p. 14, Eff. Dec. 13, 1973.

R 323.1043 Definitions; A to N.

Rule 43. As used in this part:

(a) "Agricultural water use" means a use of water for agricultural purposes, including but not limited to livestock watering, irrigation and crop spraying.

(b) "Application factor" means a numerical factor applied to the TL_m, or concentration producing other effect end points to provide the concentration of a toxic substance that would be safe for test organisms in the waters of the state.

(c) "Best practicable waste treatment technology for control of total phosphorus" means chemical-physical or chemical-physical-biological treatment processes, including, but not limited to, treatment with aluminum salts, iron salts or lime in conjunction with appropriate coagulant chemicals, settling or filtration or both, with operation and management of the treatment facilities and the process to achieve optimum phosphorus removal rates, or equivalent treatment.

(d) "Anadromous salmonids" means those trout and salmon which ascend streams to spawn.

(e) "Coldwater fish" means those fish species whose populations thrive in relatively cold water, including, but not limited to, trout, salmon, whitefish, and cisco.

(f) "Connecting waterways" means the St. Marys river, Keweenaw waterway, Detroit river, St. Clair river, and Lake St. Clair.

(g) "Designated use" means a use of the waters of the state as established by these rules, including, but not limited to, industrial, agricultural, and public water supply; recreation; fish, other aquatic life and wildlife; and navigation.

(h) "Dissolved oxygen" means the amount of oxygen dissolved in water, commonly expressed as a concentration in terms of milligrams per liter.

(i) "Dissolved solids" means the amount of materials dissolved in water commonly expressed as a concentration in terms of milligrams per liter.

(j) "Effluent" means a wastewater discharged from a point source to the waters of the state.

(k) "Fecal coliform" means a type of coliform bacteria found in the intestinal tract of humans and other warm-blooded animals.

(l) "Fish, other aquatic life and wildlife use" means the use of the waters of the state by fish, other aquatic life and wildlife for any life history stage or activity.

(m) "Industrial water supply" means a water source not protected for public water supply and intended for use in commercial or industrial applications and noncontact food processing.

(n) "Mixing zone" means a region of a water body which receives a wastewater discharge of a different quality than the receiving waters, and within which the water quality standards as prescribed by these rules do not apply.

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(o) "Natural water temperature" means the temperature of a body of water without an influence from an artificial source, or a temperature as otherwise determined by the commission.

History: 1954 ACS 77, p. 15, Eff. Dec. 13, 1973.

R 323.1044 Definitions; P to W.

Rule 44. As used in this part:

(a) "Palatability" means the state of being agreeable or acceptable to the senses of sight, taste or smell.

(b) "Plant nutrients" means those chemicals, including, but not limited to, nitrogen and phosphorus, necessary for the growth and reproduction of aquatic rooted, attached and floating plants, fungi, or bacteria.

(c) "Point source" means a discernible, confined and discrete conveyance, from which wastewater is or may be discharged to the waters of the state including, but not limited to, a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, concentrated animal feeding operation, or vessel or other floating craft.

(d) "Public water supply" means a surface raw water source which, after conventional treatment, will provide a safe, clear, potable, and aesthetically pleasing water for uses which include, but are not limited to, human consumption, food processing and cooking, and as a liquid ingredient in foods and beverages.

(e) "Raw water" means the waters of the state prior to any treatment.

(f) "Receiving waters" means the waters of the state into which an effluent is or may be discharged.

(g) "Sanitary sewage" means treated or untreated wastewaters which contain human metabolic and domestic wastes.

(h) "Standard" means a definite numerical value or narrative statement promulgated by the commission to enhance or maintain water quality to provide for and fully protect a designated use of the waters of the state.

(i) "Suspended solids" means the amount of material suspended in water, commonly expressed as a concentration in terms of milligrams per liter.

(j) "TL_m" means median tolerance limit which is the concentration of a test material in a suitable diluent at which 50% of the exposed organisms survive for a specified period of exposure.

(k) "Total body contact recreation" means an activity where the human body may come into direct contact with water to the point of complete submergence, including, but not limited to, activities such as swimming, water skiing and skin diving.

(l) "Toxic substance" means a substance of unnatural origin, except heat, in concentrations or combinations which are or may become harmful to plant or animal life.

(m) "Warmwater fish" means those fish species whose populations thrive in relatively warm water, including, but not limited to, bass, pike, walleye and panfish.

(n) "Wastewater" means liquid waste resulting from commercial, municipal and domestic operations and industrial processes, including, but not limited to, cooling and condensing waters, sanitary sewage, and industrial waste.

(o) "Waters of the state" means the Great Lakes, their connecting waterways, all inland lakes, rivers, streams, impoundments, open drains, and other surface watercourses within the confines of the state, except drainage ways and ponds used solely for wastewater conveyance, treatment, or control.

History: 1954 ACS 77, p. 15, Eff. Dec. 13, 1973.

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R 323.1050 Suspended solids.

Rule 50. All waters of the state shall contain no unnatural turbidity, color, oil films, floating solids, foams, settleable solids or deposits in quantities which are or may become injurious to any designated use.

History: 1954 ACS 77, p. 16, Eff. Dec. 13, 1973.

R 323.1051 Dissolved solids.

Rule 51. (1) The addition of any dissolved solids shall not exceed concentrations which are or may become injurious to any designated use. Point sources containing dissolved solids shall be considered by the commission on a case-by-case basis and increases of dissolved solids in the waters of the state shall be limited through the application of best practicable control technology currently available as prescribed by the administrator of the United States environmental protection agency pursuant to section 304(b) of United States Public Law 92-500, except that in no instance shall total dissolved solids in the waters of the state exceed a concentration of 500 milligrams per liter as a monthly average nor more than 750 milligrams per liter at any time, as a result of controllable point sources.

(2) In addition to the standards prescribed by subrule (1), waters of the state used for public water supply, at the point of water intake shall not exceed the permissible inorganic and organic chemicals criteria for raw public water supply in report of the national technical advisory committee to the secretary of the interior, water quality criteria, 1968, except chlorides. For the Great Lakes and connecting waters, chlorides at the point of water intake shall not exceed 50 milligrams per liter as a monthly average. For all other waters of the state, chlorides at the point of water intake shall not exceed 125 milligrams per liter as a monthly average.

History: 1954 ACS 77, p. 16, Eff. Dec. 13, 1973.

R 323.1053 Hydrogen ion concentration.

Rule 53. The hydrogen ion concentration expressed as pH shall be maintained within the range of 6.5 to 8.8 in all waters of the state, except as otherwise prescribed by R 323.1080. Any artificially induced variation in the natural pH shall remain within this range and shall not exceed 0.5 units of pH.

History: 1954 ACS 77, p. 16, Eff. Dec. 13, 1973.

R 323.1055 Taste and odor producing substances.

Rule 55. The waters of the state shall contain no unnatural substances in concentrations which are or may become injurious to their use for public, industrial or agricultural water supply, or in concentrations which lower the palatability of fish as measured by test procedures acceptable to the commission.

History: 1954 ACS 77, p. 16, Eff. Dec. 13, 1973.

R 323.1057 Toxic substances.

Rule 57. (1) Toxicity of undefined toxic substances not specifically included in subrules (2) and (3) shall be determined by development of 96 hour TL_m's or other appropriate effect end points obtained by continuous-flow or in situ bioassays using suitable test organisms. Concentrations of undefined toxic substances in the waters of the state shall not exceed safe concentrations as determined by applying an application factor, based on knowledge of the behavior of the toxic substances and the organisms to be protected in the environment, to the TL_m or other appropriate effect end point.

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(2) For all waters of the state, unless on the basis of recent information a more restrictive limitation is required to protect a designated use, concentrations of defined toxic substances, including heavy metals, shall be limited by application of the toxic substances recommendations contained in the chapter on freshwater organisms, report of the national technical advisory committee to the secretary of the interior, water quality criteria, 1968, or by application of any toxic effluent standard, limitation or prohibition promulgated by the administrator of the United States environmental protection agency pursuant to section 307(a) of United States Public Law 92-500, whichever is more restrictive.

(3) In addition to the standards prescribed in subrules (1) and (2), waters of the state used for public water supply at the point of water intake shall not exceed the permissible inorganic and organic chemicals criteria for raw public water supply in report of the national technical advisory committee to the secretary of the interior, water quality criteria, 1968, except that chlorides shall be limited to the same extent as prescribed by subrule (2) of R 323.1051.

History: 1954 ACS 77, p. 17, Eff. Dec. 13, 1973.

R 323.1058 Radioactive substances.

Rule 58. The control and regulation of radioactive substances discharged to the waters of the state shall be in accordance with and subject to the criteria, standards or requirements prescribed by the United States atomic energy commission as set forth in the applicable code of federal regulations, title 10, part 20.

History: 1954 ACS 77, p. 17, Eff. Dec. 13, 1973.

R 323.1060 Plant nutrients.

Rule 60. Nutrients originating from domestic, industrial, municipal, or domestic animal sources shall be limited to the extent necessary to prevent stimulation of growths of aquatic rooted, attached and floating plants, fungi, or bacteria which are or may become injurious to the designated uses of the waters of the state. Phosphorus which is or may readily become available as a plant nutrient shall be controlled from point source discharges by the application of methods utilizing best practicable waste treatment technology for control of total phosphorus, with the goal of achieving a monthly average effluent concentration of 1 milligram per liter as P.

History: 1954 ACS 77, p. 17, Eff. Dec. 13, 1973.

R 323.1062 Fecal coliform.

Rule 62. (1) Waters of the state protected for total body contact recreation shall contain not more than 200 fecal coliforms per 100 milliliters; and all other waters of the state shall contain not more than 1,000 fecal coliforms per 100 milliliters. These concentrations may be exceeded if due to uncontrollable non-point sources.

(2) Compliance with the fecal coliform standards prescribed by subrule (1) shall be determined on the basis of the geometric average of any series of 5 or more consecutive samples taken over not more than a 30-day period.

History: 1954 ACS 77, p. 17, Eff. Dec. 13, 1973.

R 323.1064 Dissolved oxygen; Great Lakes, connecting waterways, and inland streams.

Rule 64. A minimum of 6 milligrams per liter of dissolved oxygen in all Great Lakes and connecting waterways shall be maintained and, except for inland lakes

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as prescribed in R 323.1065, a minimum of 6 milligrams per liter of dissolved oxygen shall be maintained at all times in all inland streams designated by these rules to be protected for coldwater fish. In all other waters, except for inland lakes as prescribed by R 323.1065, a minimum of 5 milligrams per liter of dissolved oxygen shall be maintained as a daily average and no single value shall be less than 4 milligrams per liter in waters naturally capable of supporting warmwater fish.

History: 1954 ACS 77, p. 17, Eff. Dec. 13, 1973.

R 323.1065 Dissolved oxygen; inland lakes.

Rule 65. (1) The following standards for dissolved oxygen shall apply to inland lakes capable of supporting coldwater fish:

(a) In warmwater inland lakes with little water exchange which are capable of sustaining a cold stratum of well oxygenated water throughout the summer above a hypolimnion with very little oxygen, a minimum of 6 milligrams per liter of dissolved oxygen shall be maintained throughout the epilimnion and the upper ⅓ of the thermocline during the entire summer stagnation period. At all other times, the dissolved oxygen concentration shall be maintained at natural levels.

(b) In inland lakes capable of sustaining high oxygen values throughout the hypolimnion during periods of stagnation, dissolved oxygen concentrations greater than 6 milligrams per liter shall be maintained throughout the entire lake.

(c) In inland lakes which serve as principal anadromous fish migration routes, dissolved oxygen concentrations greater than 5 milligrams per liter shall be maintained throughout the epilimnion and the upper ⅓ of the thermocline in stratified lakes throughout periods of fish migration. In unstratified lakes, dissolved oxygen concentrations greater than 5 milligrams per liter shall be maintained throughout the entire lake during periods of fish migration.

(d) In shallow, unstratified coldwater inland lakes, dissolved oxygen concentrations greater than 6 milligrams per liter shall be maintained throughout the entire lake.

(2) The following standards for dissolved oxygen shall apply to inland lakes capable of supporting warmwater fish:

(a) In warmwater lakes with little water exchange, dissolved oxygen concentrations greater than 5 milligrams per liter shall be maintained throughout the epilimnion and the upper ⅓ of the thermocline during the entire summer stagnation period. At all other times, dissolved oxygen concentrations shall be maintained at natural levels.

(b) In warmwater lakes with a high rate of water exchange, dissolved oxygen concentrations greater than 5 milligrams per liter shall be maintained throughout the epilimnion and the upper ⅓ of the thermocline during the summer stagnation period. At all other times, dissolved oxygen concentrations greater than 5 milligrams per liter shall be maintained except in areas where natural oxygen depressions occur.

History: 1954 ACS 77, p. 18, Eff. Dec. 13, 1973.

R 323.1069 Temperature; general considerations.

Rule 69. (1) In all waters of the state, the points of temperature measurement normally shall be in the surface 1 meter; however, where turbulence, sinking plumes, discharge inertia, or other phenomena upset the natural thermal distribution patterns of receiving waters, temperature measurements shall be required to identify the spatial characteristics of the thermal profile.

(2) Monthly maximum temperatures, based on the ninetieth percentile occurrence of natural water temperatures plus the increase allowed at the edge of the

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mixing zone and in part on long-term physiological needs of fish, may be exceeded for short periods when natural water temperatures exceed the ninetieth percentile occurrence. Temperature increases during these periods may be permitted by the commission, but in all cases shall not be greater than the natural water temperature plus the increase allowed at the edge of the mixing zone.

(3) Natural daily and seasonal temperature fluctuations of the receiving waters shall be preserved.

History: 1954 ACS 77, p. 18, Eff. Dec. 13, 1973.

R 323.1070 Temperature; Great Lakes and connecting waterways.

Rule 70. (1) The Great Lakes and connecting waterways shall not receive a heat load which would warm the receiving water at the edge of the mixing zone more than 3 degrees Fahrenheit above the existing natural water temperature.

(2) The Great Lakes and connecting waterways shall not receive a heat load which would warm the receiving water at the edge of the mixing zone to temperatures in degrees Fahrenheit higher than the following monthly maximum temperatures:

(a) Lake Michigan north of a line due west from the city of Pentwater:

J	F	M	A	M	J	J	A	S	O	N	D
40	40	40	50	55	70	75	75	75	65	60	45

(b) Lake Michigan south of a line due west from the city of Pentwater:

J	F	M	A	M	J	J	A	S	O	N	D
45	45	45	55	60	70	80	80	80	65	60	50

(c) Lake Superior and the St. Marys river:

J	F	M	A	M	J	J	A	S	O	N	D
38	36	39	46	53	61	71	74	71	61	49	42

(d) Lake Huron north of a line due east from Tawas point:

J	F	M	A	M	J	J	A	S	O	N	D
40	40	40	50	60	70	75	80	75	65	55	45

(e) Lake Huron south of a line due east from Tawas point, except Saginaw bay:

J	F	M	A	M	J	J	A	S	O	N	D
40	40	40	55	60	75	80	80	80	65	55	45

(f) Lake Huron, Saginaw bay:

J	F	M	A	M	J	J	A	S	O	N	D
45	45	45	60	70	75	80	85	78	65	55	45

(g) St. Clair river:

J	F	M	A	M	J	J	A	S	O	N	D
40	40	40	50	60	70	75	80	75	65	55	50

(h) Lake St. Clair:

J	F	M	A	M	J	J	A	S	O	N	D
40	40	45	55	70	75	80	83	80	70	55	45

(i) Detroit river:

J	F	M	A	M	J	J	A	S	O	N	D
40	40	45	60	70	75	80	83	80	70	55	45

(j) Lake Erie:

J	F	M	A	M	J	J	A	S	O	N	D
45	45	45	60	70	75	80	85	80	70	60	50

History: 1954 ACS 77, p. 18, Eff. Dec. 13, 1973.

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R 323.1072 Temperature; inland lakes; general standards.

Rule 72. Inland lakes shall not receive a heat load which would:

(a) Increase the temperature of the thermocline or hypolimnion or decrease the volume thereof.

(b) Increase the temperature of the receiving waters at the edge of the mixing zone more then 3 degrees Fahrenheit above the existing natural water temperature.

(c) Increase the temperature of the receiving waters at the edge of the mixing zone to temperatures greater than the following monthly maximum temperatures:

J	F	M	A	M	J	J	A	S	O	N	D
45	45	50	60	70	75	80	85	80	70	60	50

History: 1954 ACS 77, p. 19, Eff. Dec. 13, 1973.

R 323.1073 Temperature; inland lakes; anadromous salmonid migrations.

Rule 73. Warmwater inland lakes which serve as principal migratory routes for anadromous salmonids shall not receive a heat load during periods of migration at such locations and in a manner which may adversely affect salmonid migration or raise the receiving water temperature at the edge of the mixing zone more than 3 degrees Fahrenheit above the existing natural water temperature.

History: 1954 ACS 77, p. 19, Eff. Dec. 13, 1973.

R 323.1074 Impoundments.

Rule 74. (1) River and stream standards as prescribed by R 323.1075 shall apply to all impoundments.

(2) The commission shall determine, when necessary, whether a body of water shall be considered as an inland lake or an impoundment for the purpose of these rules. This determination shall be made partially on the basis of aquatic life resources to be protected.

History: 1954 ACS 77, p. 19, Eff. Dec. 13, 1973.

R 323.1075 Temperatures; rivers and streams.

Rule 75. (1) Rivers and streams naturally capable of supporting coldwater fish shall not receive a heat load which would:

(a) Increase the temperature of the receiving waters at the edge of the mixing zone more than 2 degrees Fahrenheit above the existing natural water temperature.

(b) Increase the temperature of the receiving waters at the edge of the mixing zone to temperatures greater than the following monthly maximum temperatures:

J	F	M	A	M	J	J	A	S	O	N	D
38	38	43	54	65	68	68	68	63	56	48	40

(2) Rivers and streams naturally capable of supporting warmwater fish shall not receive a heat load which would warm the receiving water at the edge of the mixing zone more than 5 degrees Fahrenheit above the existing natural water temperature.

(3) Rivers and streams naturally capable of supporting warmwater fish shall not receive a heat load which would warm the receiving water at the edge of the mixing zone to temperatures greater than the following monthly maximum temperatures:

(a) Rivers and streams north of a line between Bay City, Midland, Alma, and North Muskegon:

J	F	M	A	M	J	J	A	S	O	N	D
38	38	41	56	70	80	83	81	74	64	49	39

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(b) Rivers and streams south of a line between Bay City, Midland, Alma, and North Muskegon, except the St. Joseph river:

J	F	M	A	M	J	J	A	S	O	N	D
41	40	50	63	76	84	85	85	79	68	55	43

(c) St. Joseph river:

J	F	M	A	M	J	J	A	S	O	N	D
50	50	55	65	75	85	85	85	85	70	60	50

(4) Non-trout rivers and streams that serve as principal migratory routes for anadromous salmonids shall not receive a heat load during periods of migration at such locations and in a manner which may adversely affect salmonid migration or raise the receiving water temperature at the edge of the mixing zone more than 5 degrees Fahrenheit above the existing natural water temperature.

History: 1954 ACS 77, p. 19, Eff. Dec. 13, 1973.

R 323.1080 Special conditions.

Rule 80. To be consistent with the agreement between the United States of America and Canada on Great Lakes water quality effective April 15, 1972, the following conditions shall apply to the Michigan waters of the Great Lakes and their connecting waterways:

(a) Values of pH shall not be outside the range of 6.7 to 8.5.

(b) In Lake Erie, the level of total dissolved solids shall not be greater than 200 milligrams per liter.

(c) Filtrable iron shall not be greater than 0.3 milligrams per liter.

History: 1954 ACS 77, p. 20, Eff. Dec. 13, 1973.

R 323.1082 Mixing zones.

Rule 82. (1) A mixing zone to achieve a mixture of a point source discharge with the receiving waters shall be considered a region in which organism response to water quality characteristics is time dependent. Exposure in mixing zones shall not cause an irreversible response which results in deleterious effects to populations of important aquatic life and wildlife. As a minimum restriction the toxic substance 96 hour TL_m for important species of fish or fishfood organisms shall not be exceeded in the mixing zone at any point inhabitable by these organisms, unless it can be demonstrated to the commission that a higher concentration is acceptable. The mixing zone at any transect of a stream shall contain not more than 25% of the cross sectional area or volume of flow of the stream or both, unless it can be demonstrated to the commission that designation of a greater area or volume of streamflow will allow passage of fish and fishfood organisms so that effects on their immediate and future populations are negligible or not measurable. Watercourses or portions thereof which, without 1 or more point source discharges, would have no flow except during periods of surface runoff may be considered as a mixing zone for a point source discharge. For Lake Michigan, mixing zones shall not exceed a defined area equivalent to that of a circle of radius of 1,000 feet unless the discharger can demonstrate to the commission that the defined area for a thermal discharge is more stringent than necessary to assure the protection and propagation of a balanced indigenous population of aquatic life and wildlife in the receiving water.

(2) All mixing zones established by the commission pursuant to subrule (1) shall be determined on a case-by-case basis.

History: 1954 ACS 77, p. 20, Eff. Dec. 13, 1973.

R 323.1090 Application of water quality standards.

Rule 90. (1) The water quality standards prescribed by these rules for the various designated uses of the waters of the state apply to receiving waters and are

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not to be considered applicable to wastewater effluents. The water quality standards shall not apply within defined mixing zones, except for those standards prescribed in R 323.1050 for settleable solids, deposits, floating solids, and oil films.

(2) The accepted design streamflow to which the water quality standards as prescribed by these rules shall apply are those equal to or exceeding the 10-year recurrence of a minimum low flow average of 7-day duration, except where the commission determines that a more restrictive application is necessary to protect a particular designated use.

History: 1954 ACS 77, p. 21, Eff. Dec. 13, 1973.

R 323.1091 Designated use interruption.

Rule 91. Protection of the waters of the state designated for total body contact recreation by the water quality standards prescribed by these rules may be subject to temporary interruption during or following flood conditions or uncontrollable accidents to a sewer or wastewater treatment system. In the event of such an occurrence, full public notice thereof shall be served by the commission to those affected thereby and immediate corrective action shall be required by the commission.

History: 1954 ACS 77, p. 21, Eff. Dec. 13, 1973.

R 323.1092 Dredging.

Rule 92. The water quality standards prescribed by these rules shall not apply to dredging or construction activities within water areas where such activities occur or during the periods of time when the aftereffects of dredging or construction activities degrade water quality within such water areas, if the dredging operations or construction have been authorized by the United States army corps of engineers or the department. The water quality standards shall apply, however, in nonconfined water areas utilized for the disposal of spoil from dredging operations, except within spoil disposal sites specifically defined by the United States army corps of engineers or the department.

History: 1954 ACS 77, p. 21, Eff. Dec. 13, 1973.

R 323.1096 Determinations of compliance.

Rule 96. Analysis of the waters of the state to determine compliance with the water quality standards prescribed by these rules shall be made according to procedures outlined in the current edition of standard methods for the examination of water and wastewater as published jointly by the American public health association, the American water works association and the water pollution control federation, or other methods prescribed or approved by the commission and the United States environmental protection agency.

History: 1954 ACS 77, p. 21, Eff. Dec. 13, 1973.

R 323.1097 Chemical applications.

Rule 97. The application of chemicals for water resource management projects in accordance with and subject to state statutory provisions is not subject to the standards prescribed by these rules, but all projects shall be reviewed and approved by the commission prior to chemical applications.

History: 1954 ACS 77, p. 21, Eff. Dec. 13, 1973.

R 323.1098 Nondegradation and water quality improvement.

Rule 98. (1) Waters of the state in which the existing water quality is better than the water quality standards prescribed by these rules on the date when the

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standards become effective shall not be lowered in quality by action of the commission unless and until it has been affirmatively demonstrated to the commission that a change in quality will not become injurious to the public health, safety, or welfare; or become injurious to domestic, commercial, industrial, agricultural, recreational, or other uses which are being made of the waters; or become injurious to livestock, wild animals, birds, aquatic life, or plants, or the growth or propagation thereof be prevented or injuriously affected; or whereby the value of fish or game may be destroyed or impaired, and that a lowering in quality will not be unreasonable and against the public interest in view of the existing conditions in any waters of the state.

(2) Waters of the state which do not meet the water quality standards prescribed by these rules shall be improved to meet those standards. Where the water quality of certain waters of the state do not meet the water quality standards as a result of natural causes or conditions, no further reduction of water quality by controllable point and non-point sources shall be permitted.

History: 1954 ACS 77, p. 21, Eff. Dec. 13, 1973.

R 323.1100 Designated uses; general.

Rule 100. (1) As a minimum, all waters of the state shall be protected for agricultural uses, navigation, industrial water supply, public water supply at the point of water intake, warmwater fish, and partial body contact recreation.

(2) All waters of the state designated as trout streams by the director of the department pursuant to section 8 of Act No. 165 of the Public Acts of 1929, as amended, being §301.8 of the Michigan Compiled Laws, shall be protected for coldwater fish.

(3) All inland lakes designated or managed as trout lakes by the department and the Great Lakes and their connecting waterways shall be protected for coldwater fish.

History: 1954 ACS 77, p. 22, Eff. Dec. 13, 1973.

R 323.1105 Multiple designated uses.

Rule 105. When a particular portion of the waters of the state is designated for more than 1 use, the most restrictive water quality standards for 1 or more of those designated uses shall apply to that portion.

History: 1954 ACS 77, p. 22, Eff. Dec. 13, 1973.

R 323.1110 Designated uses; total body contact recreation.

Rule 110. (1) The following waters of the state, except in mixing zones prescribed by the commission, shall be protected for total body contact recreation:

(a) All Great Lakes and their connecting waterways.

(b) All inland lakes, including, but not limited to, those connected to the Great Lakes.

(2) The following rivers and streams and their tributaries, except in mixing zones as prescribed by the commission, shall be protected for total body contact recreation:

(a) All rivers and streams located in the Upper Peninsula.

(b) All rivers and streams located north of, but not including, the Grand and Saginaw river basins.

History: 1954 ACS 77, p. 22, Eff. Dec. 13, 1973.

R 323.1115 Designated uses; impoundments and portions of streams.

Rule 115. (1) The following impoundments and portions of streams shall be protected for total body contact recreational use:

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	Name	Water Impounded	County	Location
(a)	Ada lake	Thornapple river	Kent	From head of Ada dam, T. 7 N., R. 10 W., section 34 upstream to headwaters of Cascade lake (48th Street).
(b)	Belleville lake	Huron river	Wayne	T. 3 S., R. 8 E., section 19 downstream to T. 3 S., R. 8 E., section 24.
(c)	C. S. Mott lake	Flint river	Genesee	T. 8 N., R. 7 E., sections 11, 12, 15, 16, 21.
(d)	Caley pond	Farmer creek	Lapeer	T. 6 N., R. 9 E., sections 12 and 13.
(e)	Cascade lake	Thornapple river	Kent	Included in Ada lake area.
(f)	Fallasberg dam	Flat river	Kent	T. 7 N., R. 9 W., sections 24, 25, 26.
(g)	Ford lake	Huron river	Washtenaw	T. 3 S., R. 7 E., sections 14, 15, 16, 21, 22, 23, 24.
(h)	Geddes pond	Huron river	Washtenaw	T. 2 S., R. 6 E., sections 26, 35, 36.
(i)	Grand river	Grand river (not impounded)	Ottawa	Eastmanville T. 7 N., R. 14 W., section 10, downstream to 160th avenue.
(j)	Grand river	Grand river (not impounded)	Kent	Plainfield road bridge downstream to lower limits of Comstock riverside park, T. 8 N., R. 11 W., section 31.
(k)	Holloway reservoir	Flint river	Genesee	T. 8 N., R. 8 E., sections 1, 2, 11, 12, 13. T. 8 N., R. 9 E., sections 7, 8, 17, 18.
(l)	Ionia recreation area	Sessions creek	Ionia	T. 6 N., R. 7 W., section 3. N.W.¼ section 3.
(m)	Lake Allegan	Kalamazoo river	Allegan	M-89 bridge downstream to dam—T. 2 N., R. 14 W., section 10.
(n)	Lake Geneva	Looking Glass river (not impounded)	Clinton	T. 5 N., R. 2 W., section 7.
(o)	Lake LeAnn	Grand river	Hillsdale	T. 5 S., R. 1 W., sections 3, 4, 9, 10.
(p)	Lake Victoria	Alder creek	Clinton	T. 6 N., R. 1 W., sections 12, 13.
(q)	Lobdell lake	Shiawassee river	Genesee Livingston	T. 5 N., R. 5 E., sections 25, 34, 35, 36. T. 4 N., R. 5 E., sections 1 and 2.
(r)	Manitoon lake	Unnamed creek	Shiawassee	T. 6 N., R. 2 E., sections 10, 11, 14, 15.
(s)	Maple lake	Paw Paw river	Van Buren	T. 3 S., R. 14 W., sections 1, 12.
(t)	Martiny lake flooding	South Branch Chippewa river	Mecosta	T. 15 N., R. 8 W., sections 5, 6, 7, 8.

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	Name	Water Impounded	County	Location
(u)	Moore's Park impoundment	Grand river	Ingham	Waverly road bridge downstream to dam, T. 4 N., R. 2 W., section 21.
(v)	Pine creek reservoir	Pine creek	Allegan	T. 1 N., R. 12 W., sections 7, 17, 18, 20, 21, 28, 29, 31, 32.
(w)	Ross lake	North, Middle and South Branches Tobacco river	Gladwin	T. 17 N., R. 2 W., sections 1, 2, 11, 12, 14. T. 17 N., R. 1 W., sections 5, 6, 7.
(x)	Sanford lake	Tittabawassee river	Midland	T. 15 N., R. 1 W., sections 1, 2, 11, 12, 13, 14, 24. T. 16 N., R. 1 W., sections 11, 14, 23, 26, 35.
(y)	Secord lake	Tittabawassee river	Gladwin	T. 19 N., R. 1 E., sections 2, 3, 4, 9. T. 20 N., R. 2 E., sections 10, 15, 20, 24, 25, 26, 29, 31, 35, 36.
(z)	Shamrock lake	Tobacco river	Clare	T. 17 N., R. 4 W., section 26.
(aa)	Shiawassee impoundment	Shiawassee river	Shiawassee	T. 6 N., R. 3 E., sections 11, 14.
(bb)	Sleepy Hollow reservoir	Maple river	Clinton	T. 6 N., R. 1 W., sections 3, 10, Jason road downstream to dam.
(cc)	Springbrook lake	Springbrook creek	Shiawassee	T. 6 N., R. 2 E., section 10.
(dd)	Smallwood lake	Tittabawassee river	Gladwin	T. 18 N., R. 1 W., section 1. T. 18 N., R. 1 E., sections 4, 9, 15, 16. T. 19 N., R. 1 W., section 36.
(ee)	Thompson lake	Bogue creek	Livingston	T. 3 N., R. 5 E., sections 30, 31. T. 3 N., R. 4 E., sections 25, 36.
(ff)	Thornapple lake	Thornapple river	Barry	T. 3 N., R. 7 W., sections 19, 20, 30. T. 3 N., R. 8 W., sections 24, 25.
(gg)	Thread lake	Thread creek	Genesee	T. 7 N., R. 7 E., sections 19, 20.
(hh)	Webber Dam impoundment	Grand river	Ionia	Goodwin road downstream to dam, T. 7 N., R. 5 W., section 33.
(ii)	Wiggins lake	Cedar river	Gladwin	T. 18 N., R. 2 W., section 4. T. 19 N., R. 2 W., sections 27, 34.

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	Name	Water Impounded	County	Location
(jj)	Wildwood lake	Thread creek	Oakland	T. 5 N., R. 8 E., section 28.
(kk)	Wixom lake	Tittabawassee river	Gladwin	T. 17 N., R. 1 W., section 36.
				T. 17 N., R. 1 E., sections 1, 2, 11, 12, 13, 14, 23, 26, 27, 33, 34, 35.
				T. 18 N., R. 1 E., sections 25, 36.
			Midland	T. 16 N., R. 1 E., sections 2, 3, 4.
				T. 16 N., R. 1 W., section 1.

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(2) The following streams and portions thereof shall be protected for total body contact recreational use:

	Name	County	Location
(a)	Maumee river	Branch, Lenawee and Hillsdale	All water in basin.
(b)	St. Joseph river	Berrien	Napier road to section line between section 1, Oronoko township, and section 6, Berrien township.
(c)	St. Joseph river	Berrien	Indiana-Michigan power company dam at Berrien Springs to north section line of section 23, Buchanan township.
(d)	St. Joseph river	Berrien	Township line between Buchanan and Niles townships, to section line between sections 15 and 16, Niles township.
(e)	St. Joseph river	Berrien	French Paper company dam, Niles to Michigan-Indiana border.
(f)	St. Joseph river	Cass and St. Joseph	Michigan-Indiana border to section line between sections 26 and 27, Constantine township.
(g)	St. Joseph river	St. Joseph	Michigan Gas and Electric company dam at Constantine to section line between sections 19 and 30, Lockport township.
(h)	St. Joseph river	St. Joseph	Midland Wire corporation dam at Three Rivers to existing west village limits of Mendon.
(i)	St. Joseph river	St. Joseph	Existing east village limits of Mendon to Sturgeon lake.
(j)	St. Joseph river	St. Joseph and Branch	Lowland road to Aborgast road, Union township.
(k)	St. Joseph river	Branch and Calhoun	Existing east city limits of Union City to existing south village limits of Burlington.
(l)	St. Joseph river	Calhoun	Existing east village limits of Burlington to section line between sections 33 and 34, Tekonsha township.
(m)	St. Joseph river	Hillsdale	Existing east village limits of Tekonsha to section line between sections 8 and 9, Litchfield township.
(n)	St. Joseph river	Hillsdale	Existing east city limits of Litchfield to Genesee Mill dam.
(o)	Hickory creek	Berrien	Mouth at St. Joseph river to section line between sections 15 and 22, Lincoln township.

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	Name	County	Location
(p)	Dowagiac river	Cass	City of Niles dam to section line between sections 9 and 16, Pokagon township.
(q)	East Branch Dowagiac creek	Cass	Mill pond dam to LeGrange lake.
(r)	Christiann creek	Cass	Michigan-Indiana border to Christiann lake.
(s)	Portage river	St. Joseph	Existing north city limits of Three Rivers to Portage lake.
(t)	Coldwater river	Branch	Existing east city limits of Union City to Craig lake.

History: 1954 ACS 77, p. 22, Eff. Dec. 13, 1973.

R 323.1116 Availability of documents.

Rule 116. Documents referenced in R 323.1057 and R 323.1096 may be obtained at current costs as listed as follows:

(a) Report of the national technical advisory committee to the secretary of the interior, water quality criteria, 1968, may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at cost of $3.00.

(b) Standard methods for the examination of water and wastewater may be obtained from the American Public Health Association, 1015 Eighteenth Street, N.W., Washington, D.C., 20036, at a cost of $35.00.

History: 1954 ACS 77, p. 25, Eff. Dec. 13, 1973.

PART 5. SPILLAGE OF OIL AND POLLUTING MATERIALS

R 323.1151 Definitions; A to O.

Rule 151. As used in this part:

(a) "Boom" means a floating containment device which may be rapidly positioned around an oil spill to prevent the movement or spread of such oil to adjacent water areas.

(b) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, gasoline, fuel oil, grease, sludge, oil refuse, and oil mixed with waste.

(c) "Oil spill clean-up cooperative" means an organization created by contractual agreement among persons engaged in on-loading and off-loading of oil and other persons, including governmental units, which provide and utilize booms and associated equipment to prevent the movement or spread of oil on the waters of this state in case of spillage thereof.

(d) "Oil storage facility" means a temporary or permanent land-based industry, plant, establishment, firm or other facility, except an oil field petroleum or brine storage facility and a recreational marina, so situated that oil could directly or indirectly reach the surface or ground waters of this state, including but not limited to, a facility which discharges through a sewer system, and which receives, processes, manufactures, stores, or ships oil, and has on hand at any time, oil in excess of 40,000 gallons or any other land-based facility which has on hand less than 40,000 gallons of oil if the commission determines that such facility should be subject thereto.

(e) "On-land facility" means a temporary or permanent land-based industry, plant, establishment, firm, storage site, or other facility so situated that loss of polluting materials could directly or indirectly reach the surface or ground waters

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of this state, including, but not limited to, a facility which discharges through a sewer system, and which receives, processes, manufactures, stores, or ships polluting materials.

History: 1954 ACS 75, p. 22, Eff. Mar. 22, 1973.

R 323.1152 Definitions; P to V.

Rule 152. As used in this part:

(a) "Polluting material" means salt and any material listed on the critical materials register as prepared by the commission pursuant to section 6b of the commission act, in solid or liquid form.

(b) "Salt" means sodium chloride and calcium chloride in solid or liquid form.

(c) "Use area" means any area within an oil storage facility or on-land facility which is used for handling, treating, or processing oil or polluting materials.

(d) "Vessel" means a contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including a foreign or domestic vessel engaged in commerce upon the waters of this state, and any other cargo carrying vessel or barge which transports oil or polluting material.

History: 1954 ACS 75, p. 22, Eff. Mar. 22, 1973.

R 323.1153 Vessels; booms for on-loading and off-loading oil.

Rule 153. Before oil is on-loaded or off-loaded through a conduit to or from a vessel on the waters of this state at an oil storage facility, booms, and associated equipment shall be available at the site to be positioned immediately to prevent the movement or spread of any oil on the waters of this state in case of the spillage thereof. Booms and associated equipment may be considered to be available at the site if the oil storage facility is a member of an oil spill clean-up cooperative which has received approval by the commission. Adequate personnel shall be available at all times to position the booms in the event of such spillage.

History: 1954 ACS 75, p. 22, Eff. Mar. 22, 1973.

R 323.1154 Oil storage facilities; booms for oil.

Rule 154. An oil storage facility, adjacent to a watercourse, which stores or in any way handles oil, shall have available adequate emergency boom systems and associated equipment for containment of such oil in case of spillage thereof. Booms and associated equipment may be considered to be available if the oil storage facility is a member of an oil spill clean-up cooperative which has received approval by the commission. Immediately upon spillage, the booms shall be positioned by the oil storage facility or oil spill clean-up cooperative until all oil is removed, or, in the judgment of the commission, the oil no longer poses a threat to the waters of this state. Adequate personnel shall be available at all times to position the booms in the event of spillage.

History: 1954 ACS 75, p. 23, Eff. Mar. 22, 1973.

R 323.1155 Oil storage and on-land facilities; surveillance.

Rule 155. (1) Upon any on-loading or off-loading of oil through a conduit to or from an oil storage facility, vessel, or other means of transport, adequate surveillance of the loading operation shall be maintained by the oil storage facility until all such operations are completed, so that any oil spillage can be immediately detected and procedures implemented to prevent its reaching the waters of this state.

(2) Oil storage and on-land facilities shall maintain adequate surveillance of all manufacturing processes, treatment systems, storage areas, and other such areas

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so that oil spillage or polluting material loss therefrom can be immediately detected and procedures implemented to prevent its reaching the waters of this state.

(3) Any person employed by an oil storage or on-land facility for such surveillance shall be knowledgeable in operations and procedures necessary to prevent oil or polluting material from reaching the waters of this state.

History: 1954 ACS 75, p. 23, Eff. Mar. 22, 1973.

R 323.1156 Oil storage and use areas; emergency containment structures.

Rule 156. A storage or use area at an oil storage facility shall be diked, curbed, or otherwise structurally enclosed so as to be able to contain a volumetric capacity which is not less than the greatest amount of liquid that can be released from the largest tank within the diked area, assuming a full tank, unless a lesser containment area or alternate control measures are approved by the commission or its designated representative. The capacity of the diked area enclosing more than 1 tank shall be calculated by deducting therefrom the volume of the tanks other than the largest tank below the height of the dike. The area shall be so constructed that no oil can escape therefrom by gravity through sewers, drains, or otherwise directly or indirectly into any sewer system or to the surface or groundwaters of this state, unless otherwise approved by the commission or its designated representative.

History: 1954 ACS 75, p. 23, Eff. Mar. 22, 1973.

R 323.1157 Salt storage areas; emergency containment structure.

Rule 157. (1) Salt in liquid form stored at an on-land facility shall be diked, curbed, or otherwise structurally enclosed so as to be able to contain a volumetric capacity which is not less than the greatest amount of liquid that can be released from the largest tank within the diked area, assuming a full tank, unless a lesser containment area or alternate control measures are approved by the commission or its designated representative. The capacity of the diked area enclosing more than 1 tank shall be calculated by deducting therefrom the volume of the tanks other than the largest tank below the height of the dike. The area shall be so constructed that no salt can escape therefrom by gravity through sewers, drains, or otherwise directly or indirectly into any sewer system or to the surface or groundwaters of this state.

(2) Salt in solid form stored for more than 15 days at an on-land facility shall be enclosed, covered, or otherwise protected to prevent runoff, seepage, or leakage onto or into the surface or groundwaters of this state. Salt shall be stored not less than 50 feet from the shore or bank of any lake or stream unless otherwise required or approved by the commission.

History: 1954 ACS 75, p. 23, Eff. Mar. 22, 1973.

R 323.1158 Polluting material storage and use areas; emergency containment structures.

Rule 158. (1) A storage or use area at an on-land facility for polluting material, except salt, in a liquid form shall be diked, curbed, or otherwise structurally enclosed so as to be able to contain not less than 150% of the liquid polluting material stored or used unless a lesser containment area or alternate control measures are approved by the commission or its designated representative. The area shall be so constructed that no liquid polluting material can escape therefrom by gravity through building sewers, drains, or otherwise directly or indirectly into

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any sewer system or the surface or groundwaters of this state, unless otherwise approved by the commission or its designated representative.

(2) Polluting material, except salt, in solid form stored at an on-land facility shall be located in security areas designed to prevent the loss of such materials to any sewer system or to the surface or groundwaters of this state.

History: 1954 ACS 75, p. 24, Eff. Mar. 22, 1973.

R 323.1159 Exceptions.

Rule 159. (1) The discharge of solutions containing limited concentrations of oil, salt or polluting materials to the waters of this state or to sanitary sewer systems as specified in permits or orders of determination or final orders of determination made by the commission in accordance with the provisions of the commission act, or as permitted by a local ordinance which has the concurrence of the state department of public health, is not prohibited by R 323.1156, R 323.1157, or R 323.1158.

(2) If the commission determines that an oil storage facility which has on hand less than 40,000 gallons of oil may be a hazard to the surface or groundwaters of this state, such facility may be subjected to these rules by a permit or order of determination of the commission.

History: 1954 ACS 75, p. 24, Eff. Mar. 22, 1973.

R 323.1162 Pollution incident prevention plan.

Rule 162. (1) The owner, operator or manager of an oil storage or on-land facility shall file with the commission within 180 days after the effective date of these rules, or 30 days before the date of first use in case of new construction, a pollution incident prevention plan setting forth:

(a) The procedures by which such person proposes to prevent pollution of the waters of this state from storage and use areas, manufacturing processes, treatment systems, and shipping of oil and materials.

(b) The emergency clean-up procedures to be used in case of a spill, discharge, seepage, runoff, or leakage of oil or polluting materials into the waters of this state.

(c) The type of surveillance employed by such person.

(d) The method by which inventories are made of oil and polluting materials from the time the oil or polluting material is received or manufactured until such time it is treated and discharged or shipped out by the oil storage or on-land facility.

(2) If the commission determines that a pollution incident prevention plan prepared pursuant to subrule (1) is incomplete or inadequate, it may return such plan to the owner, operator, or manager of an oil storage or on-land facility with its findings and recommendations and request modification thereof. The owner, operator, or manager of the oil storage or on-land facility shall modify and resubmit the pollution incident prevention plan to the commission within 30 days following the commission's request.

History: 1954 ACS 75, p. 24, Eff. Mar. 22, 1973.

R 323.1163 Oil spill clean-up cooperative members; change in status.

Rule 163. (1) If an oil storage facility which is a member of an approved oil spill clean-up cooperative withdraws from such cooperative, it shall notify the commission of its intention to withdraw and shall file a revised pollution incident prevention plan pursuant to R 323.1162 at least 30 days before the date of withdrawal.

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(2) An oil storage facility shall not withdraw from the approved oil spill clean-up cooperative until the commission approves the revised pollution incident prevention plan submitted pursuant to subrule (1).

History: 1954 ACS 75, p. 24, Eff. Mar. 22, 1973.

R 323.1164 Pollution incident report.

Rule 164. The owner, operator, or manager of a vessel, oil storage facility, or an on-land facility which spills, or permits to be spilled, oil, salt, or polluting material shall immediately notify the commission and within 10 days after the spill shall file a report with the commission outlining the cause, its discovery, and the procedures taken to remove the oil, salt, or polluting material from the waters of this state. This rule does not supersede, rescind, or otherwise alter any other existing or future procedure, rule, or statute pertaining to pollution of the waters of this state.

History: 1954 ACS 75, p. 24, Eff. Mar. 22, 1973.

R 323.1169 Enforcement.

Rule 169. A person who violates any provision of this part is subject to the procedures and penalties prescribed in sections 7, 9, and 10 of the commission act.

History: 1954 ACS 75, p. 25, Eff. Mar. 22, 1973.

PART 6. CLEANING AGENTS AND WATER CONDITIONERS

R 323.1171 Definitions.

Rule 171. As used in this part:

(a) "Cleaning agent act" means Act No. 226 of the Public Acts of 1971, being §§323.231 to 323.236 of the Michigan Compiled Laws.

(b) "Constituent" means a compound or ingredient contained in the formula of a cleaning agent or water conditioner, other than phosphorus, identified by its common chemical name.

(c) "Person" means a manufacturer, processor, formulator, or packager who sells or distributes any cleaning agent or water conditioner for use in this state.

History: 1954 ACS 73, p. 21, Eff. Oct. 20, 1972.

R 323.1172 Exceptions.

Rule 172. The rules in this part apply to all cleaning agents and water conditioners as defined by the cleaning agent act, except:

(a) A cleanser, rinsing aid, or sanitizing agent intended primarily for use in an automatic or machine dishwasher.

(b) An industrial and commercial conversion coating agent, corrosion remover, paint remover, rust inhibitor, metal brightener, etchant, or other surface conditioner.

(c) A solvent cleaner or other similar product not normally used with water.

(d) A disinfectant or sanitizer used in institutions, hospitals, and health care facilities.

(e) A compound or product used in the manufacture or processing of foods and food products, including those used in dairy, beverage, egg, fish, poultry, meat, fruit, and vegetable processing facilities.

(f) A product intended primarily for personal use, including, but not limited to, bathing soaps, dentifrices, shampoos, cleansing creams, toothpastes, and other products for the care of the human body.

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(g) A product subject to registration or control under federal or state law governing foods, drugs, cosmetics, insecticides, fungicides, and rodenticides.

(h) A product normally not used with water, such as a cleanser for windows, ovens, or other hard surfaces.

(i) A water softening chemical, anti-scale chemical, or corrosion inhibitor intended for use in circulatory systems, such as boilers, air conditioners, cooling towers, and hot water heating systems.

History: 1954 ACS 73, p. 21, Eff. Oct. 20, 1972.

R 323.1173 Statements of product constituents and restrictions.

Rule 173. (1) Before October 1, 1972, a person engaged in the sale or distribution of cleaning agents or water conditioners shall file with the commission a written statement setting forth the percentage of phosphorus by weight for each product, expressed as elemental phosphorus, and setting forth the chemical names of all constituents in all such products sold or distributed by a person in this state.

(2) After September 30, 1972, a person shall not sell or distribute a new, reformulated, or altered cleaning agent or water conditioner unless he first has filed with the commission:

(a) A written statement setting forth the percentage of phosphorus by weight, expressed as elemental phosphorus, and the chemical names of all constituents in such product not previously filed with the commission under subrule (1).

(b) A written statement that a cleaning agent or water conditioner is not likely to cause unlawful pollution or other conditions or injuries as described in sections 3 and 4 of the cleaning agent act.

(3) A person shall furnish additional information about any constituent contained in a cleaning agent or water conditioner, upon request by the commission, if the commission determines that the information is necessary to protect the waters of the state from unlawful pollution or other injuries as described in sections 3 and 4 of the cleaning agent act.

(4) After October 1, 1977, a person shall not sell or distribute for use in this state a household laundry detergent which contains phosphorus in any form in excess of 0.5% by weight, expressed as elemental phosphorus.

History: 1954 ACS 73, p. 22, Eff. Oct. 20, 1972; 1954 ACS 93, p. 25, Eff. Sept. 24, 1977.

R 323.1174 Confidentiality of information.

Rule 174. Information filed with the commission pursuant to R 323.1173 shall be used by the commission only as the information is necessary to implement the commission's function and duty as prescribed by the cleaning agent act. The information shall be treated as confidential trade secret information in accordance with section 22 of Act No. 306 of the Public Acts of 1969, as amended, being §24.222 of the Michigan Compiled Laws, and shall not be made available to the public except as provided therein.

History: 1954 ACS 73, p. 22, Eff. Oct. 20, 1972.

R 323.1175 Statements and determinations; proofs and consultation.

Rule 175. (1) A statement filed with the commission pursuant to R 323.1173 may be contested by the commission if it determines that a cleaning agent or water conditioner is causing or is likely to cause unlawful pollution or other injuries as defined in sections 3 and 4 of the cleaning agent act.

(2) In determining whether a cleaning agent or water conditioner is causing or is likely to cause unlawful pollution or other injuries as defined in the cleaning agent act, the commission may seek the counsel and advice of the director of the

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department of public health on the health or safety of any users of the cleaning agent or water conditioner and of any state or federal agency or educational institution as to any harmful effect upon animals, aquatic life, or beneficial water uses.

(3) A contest asserted by the commission shall be noticed, heard, and determined in accordance with part 3 of these rules.

History: 1954 ACS 73, p. 22, Eff. Oct. 20, 1972.

R 323.1180 Commission requests; hearings; determinations.

Rule 180. The commission may request the reduction or removal of a constituent or chemical by a person if the commission believes that the use of the constituent or chemical in a cleaning agent or water conditioner, under conditions of intended or probable use, is likely to cause a water pollution or public health problem. The commission may issue an order of determination regulating or banning the product or constituent after hearing held in accordance with part 3 of these rules, unless procedure is otherwise prescribed in this part, if voluntary reduction or removal is not accomplished as requested.

History: 1954 ACS 73, p. 22, Eff. Oct. 20, 1972.

R 323.1181 Hearings, notices, and appearances.

Rule 181. (1) When the commission determines that a restriction on the nutrient content or other constituent of a cleaning agent or water conditioner is necessary to abate or prevent injury defined in sections 3 and 4 of the cleaning agent act, the commission shall notify the person affected by certified mail and set a date for a hearing on the facts and proposed action. The hearing shall be held in accordance with part 3 of these rules.

(2) An appearance at a hearing shall be made in person by a duly authorized agent or by counsel.

History: 1954 ACS 73, p. 23, Eff. Oct. 20, 1972.

PART 9. WASTEWATER REPORTING AND SURVEILLANCE FEES

R 323.1231 Definitions; A to C.

Rule 231. (1) "Act" means Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.13 of the Michigan Compiled Laws, and the act which these rules implement.

(2) "Advisory committee" means the group of environmental specialists created under section 6b of the act.

(3) "Commission" means the water resources commission of the department of natural resources.

(4) "Critical materials" means organic and inorganic substances, elements or compounds which are listed in a register compiled by the commission.

History: 1954 ACS 69, p. 49, Eff. Nov. 1, 1971.
Editor's note: R 323.1231—R 323.1242 were transferred from R 323.41—R 323.52. See 1954 ACS 72, p. 37.

R 323.1232 Definitions; H to W.

Rule 232. (1) "Hazardous materials" means oil and salt, including, but not limited to, petroleum, gasoline, fuel oil, grease, sludge, oil refuse, oil mixed with waste, sodium chloride, and calcium chloride, in solid or liquid form.

(2) "Legislative appropriations conversion factor" means a factor which is used to adjust surveillance fees upward or downward, so that the total of annual surveillance fees will equal the legislative appropriation designated for industrial and commercial surveillance activities for a fiscal year.

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(3) "Person" means an individual, partnership, association, corporation, or any commercial or industrial entity doing business in the state which discharges wastewaters, but does not include a municipal corporation or a governmental unit or agency thereof.

(4) "Sewer system" means enclosed pipes and conduits which conduct wastewater to a wastewater treatment facility and are owned or operated by county, metropolitan district, city, village or other public body created by or pursuant to state law.

(5) "Wastewater" means both liquid waste discharges resulting from industrial or commercial processes, including cooling and condensing waters and sanitary sewage from industrial or commercial facilities.

(6) "Waters of the state" means surface and underground waters, including lakes, rivers, streams, open drainage conduits, and all other watercourses and waters within the state and also the Great Lakes bordering thereon, except non-potable underground waters utilized incidental to gas and oil well operations that are subject to permit and surveillance under Act No. 61 of the Public Acts of 1939, as amended, being §§319.1 to 319.27 of the Michigan Compiled Laws.

History: 1954 ACS 69, p. 49, Eff. Nov. 1, 1971; 1954 ACS 77, p. 25, Eff. Oct. 19, 1973.

R 323.1233 Register of critical materials.

Rule 233. A register of critical materials as initially compiled by the commission shall be published during the month of October, 1971, by 1 of the methods prescribed by section 42 of Act No. 306 of the Public Acts of 1969, being §24.242 of the Michigan Compiled Laws. Copies shall be made available to the public upon request. The register may be revised annually by the commission upon receipt of advice from the advisory committee. A revision shall be published in the same manner as the initial register and shall become effective only on the next annual anniversary date thereof.

History: 1954 ACS 69, p. 49, Eff. Nov. 1, 1971; 1954 ACS 77, p. 26, Eff. Oct. 19, 1973.

R 323.1234 Wastewater reports; contents; forms.

Rule 234. (1) A report shall be filed under section 6b and section 13 of the act by every person doing business within this state who either discharges wastewater to the waters of the state, or who discharges wastewater in addition to sanitary sewage to a sewer system. The report shall be on forms provided by the commission and shall set forth in detail:

(a) Name, location, and nature of the enterprise or operation.

(b) Normal schedule of hours and days of operation of the enterprise.

(c) A fair estimate of the annual total number of gallons of wastewater which are to be discharged to the waters of the state or to any sewer system.

(d) Name of the watercourse or waters into which the wastewaters are discharged.

(e) A description of each point at which wastewaters enter the waters of the state, a sewer system, or are disposed of by percolation underground.

(f) A list of those materials used in and incidental to operation of the business or manufacturing enterprise, which appear on the register of critical materials.

(g) A list of those critical materials listed on the register, including the annual amounts thereof, which are to be disposed of as waste products or by-products to the waters of the state, or any sewer system.

(h) Other information as needed for implementation of sections 6b and 13 of the act.

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(2) Not later than October 1 of the year for which reports are due, the commission shall mail a standardized reporting form and a register of critical materials to each person affected by section 6b and these rules.

History: 1954 ACS 69, p. 49, Eff. Nov. 1, 1971; 1954 ACS 77, p. 26, Eff. Oct. 19, 1973.

R 323.1235 Wastewater reports; filing and confidentiality.

Rule 235. (1) A wastewater report shall be filed annually with the commission not later than December 15. The reporting period is the calendar year in which the report is filed.

(2) An interim report shall be filed promptly when:

(a) The use of critical materials not previously reported is commenced during any year, or

(b) The amounts of critical materials used or discharged increase sufficiently to move the level of usage into a higher category on the annual critical materials report.

(3) A person doing business in more than 1 location shall file a separate report for each location.

(4) The information on the critical materials listed in an annual report as being used in and incidental to manufacturing operations shall be available to the public unless the release thereof would, in the opinion of the commission after petition by the person filing the report, fail to protect the confidentiality of proprietary manufacturing processes.

History: 1954 ACS 69, p. 50, Eff. Nov. 1, 1971; 1954 ACS 77, p. 26, Eff. Oct. 19, 1973.

R 323.1236 Surveillance fees calculation.

Rule 236. (1) The annual surveillance fee shall be calculated by the following formula: annual fee = $50.00 administrative fee + (graduated volume base fee × survey factor).

(2) A legislative appropriations conversion factor may be applied by the commission to all annual surveillance fees for the fiscal year to adjust the total amount of fees to be received to the legislative appropriation designated for industrial and commercial surveillance activities for that fiscal year.

(3) The maximum fee for each industrial or commercial location shall be $9,000.00.

History: 1954 ACS 69, p. 50, Eff. Nov. 1, 1971; 1954 ACS 77, p. 27, Eff. Oct. 19, 1973.

R 323.1237 Volume base fees.

Rule 237. The volume base fee shall be on a graduated basis as follows:

Average Wastewater Discharge Volume Based on Days When Discharge Occurs (Million Gallons Per Day)			Volume Base Fee
	less than	.002	$ 10.00
.002	but less than	.003	15.00
.003	but less than	.005	20.00
.005	but less than	.010	25.00
.010	but less than	.025	30.00
.025	but less than	.050	40.00
.050	but less than	.075	50.00
.075	but less than	.1	65.00
.1	but less than	.2	80.00
.2	but less than	.3	100.00

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Average Wastewater Discharge Volume Based on Days When Discharge Occurs (Million Gallons Per Day)			Volume Base Fee
.3	but less than	.5	$ 125.00
.5	but less than	1.0	175.00
1.0	but less than	2.5	275.00
2.5	but less than	5.0	400.00
5.0	but less than	10.0	600.00
10.0	but less than	25.0	800.00
25.0	but less than	100.0	1,000.00
100.0	and over		1,200.00

History: 1954 ACS 69, p. 50, Eff. Nov. 1, 1971; 1954 ACS 77, p. 27, Eff. Oct. 19, 1973.

R 323.1238 Survey factor.

Rule 238. (1) Determination of the survey factor used in calculation of a surveillance fee shall be based upon the following subfactors:

(a) The flow variability of waste effluent flow.

(b) The volume of the waste effluent flow related to flow conditions in the receiving waters.

(c) The waste effluent as related to the critical nature of the receiving water as indicated by its protected designated uses for public water supplies, cold water intolerant fish, total body contact, warm water intolerant fish, industrial water use and commercial water use.

(d) The waste constituents to be monitored. This factor shall include the number of constituents to be monitored in addition to the relative costs of collection and analysis.

(e) The frequency of surveillance required as related to the presence of critical materials.

(f) The frequency of surveillance as related to the recent history of facility performance.

(g) The facility's provisions for the handling and containment of hazardous and critical materials.

(h) The number of locations at which wastewater is discharged from the facility.

(i) The difficulty of survey setup, including, but not limited to, the physical and geographical problems encountered in surveillance.

(j) The amount of surveillance to be conducted in the area where the wastewater is discharged.

(2) The survey factor shall not be less than 1.0.

History: 1954 ACS 69, p. 50, Eff. Nov. 1, 1971; 1954 ACS 77, p. 27, Eff. Oct. 19, 1973.

R 323.1239 Contested fees.

Rule 239. A person who contests a fee established by the commission shall be afforded opportunity for a hearing thereon in accordance with Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws, and the commission rules of procedure.

History: 1954 ACS 69, p. 51, Eff. Nov. 1, 1971.

R 323.1240 Notices of fees due.

Rule 240. On or before February 1 of each year, the commission shall notify each person owing a surveillance fee of the amount thereof which is due. The

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notice shall set forth the administrative fee and the calculations used in establishing the total fee due. If an assessment is added to the administrative fee for wastewater discharges to a sewer system, the notice shall specify the substances in the waste which are likely to create injuries to the waters of the state after the treatment provided by the municipality or other government unit.

History: 1954 ACS 69, p. 51, Eff. Nov. 1, 1971; 1954 ACS 77, p. 28, Eff. Oct. 19, 1973.

R 323.1241 Exemptions from surveillance fees.

Rule 241. A person whose wastewater discharges are less than 2,000 gallons per day if made to the ground, or are less than 10,000 gallons per day if made to a sewer system, or consist only of sanitary sewage discharged to a sewer system, is exempt from payment of the annual surveillance fee on such discharges unless, in the opinion of the commission, they require surveillance by the state.

History: 1954 ACS 69, p. 51, Eff. Nov. 1, 1971; 1954 ACS 77, p. 28, Eff. Oct. 19, 1973.

R 323.1242 Violations.

Rule 242. (1) A person who fails to file timely an annual or interim report, falsifies or fails to provide any information required by R 323.1234, after being notified by certified mail thereof by the commission, shall have 10 days, after the date of mailing thereof, in which to file the report or corrected or supplemental information. Upon failure to comply, the commission may notify the person of the alleged violation and set a date for a hearing thereon to show cause why operation of the business or industry should not be enjoined. After the hearing, the commission shall determine if a violation exists and the action to be taken thereon.

(2) R 323.3, with reference to appearances, and R 323.6, with reference to the designation of a hearings officer, of the general rules of the commission apply to a hearing held under this rule.

(3) A person who does not pay the surveillance fee in full on or before March 1 of each year, commencing March 1, 1972, is subject to penalties specified in section 10 of the act.

History: 1954 ACS 69, p. 51, Eff. Nov. 1, 1971.
Editor's note: R 323.1231—R 323.1242 were transferred from R 323.41—R 323.52. See 1954 ACS 72, p. 37.

PART 10. TREATMENT PLANT OPERATORS

R 323.1251 Purpose.

Rule 251. Section 6a of Act No. 245 of the Public Acts of 1929, as added by Act No. 209 of the Public Acts of 1968 and amended by Act No. 129 of the Public Acts of 1972, being §323.206a of the Michigan Compiled Laws, requires that every industrial or commercial entity which discharges liquid wastes into any surface or ground waters or underground or on the ground other than through a public sanitary sewer shall have waste treatment or control facilities under the specific supervision and control of persons who have been certified by the water resources commission as being properly qualified to operate the facilities. These rules set forth the requirements for certification of such operators.

History: 1954 ACS 62, p. 14, Eff. May 18, 1970; 1954 ACS 77, p. 28, Eff. Sept. 21, 1973.
Editor's note: R 323.1251—R 323.1259 were transferred from R 323.21—R 323.29. See 1954 ACS 72, p. 37.

R 323.1252 Definitions.

Rule 252. (1) "Board" means the board of examiners established by the commission.

(2) "Certificate" means a document issued by the commission attesting that a person is properly qualified to operate or supervise the operation of certain designated waste treatment or control facilities.

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(3) "Owner" means an industrial or commercial entity which discharges liquid wastes into any surface or ground waters or underground or on the ground other than through a public sanitary sewer.

(4) "Public sanitary sewer" means an enclosed pipe or conduit intended to carry wastewater from homes, businesses, and industries and is owned, operated, and maintained by a city, village, township, county, authority, or other municipal entity.

(5) "Waste treatment or control facilities" means any disposal system, including disposal wells, or any treatment works, equipment, machinery, or installation constructed, used, or placed in operation for the purpose of reducing or eliminating water pollution caused by industrial waste or any device or equipment for retaining, metering, regulating, or monitoring a wastewater discharge, except that this rule shall not apply to water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes and is under permit by the state supervisor of wells.

History: 1954 ACS 62, p. 14, Eff. May 18, 1970; 1954 ACS 77, p. 28, Eff. Sept. 21, 1973.

R 323.1253 Classification of waste treatment or control facilities.

Rule 253. (1) Each waste treatment or control facility shall be classified by the commission as to type. The commission shall notify the owner of the waste treatment or control facility of its classification by issuing a certificate of classification. An owner who objects to the assigned classification may appeal to the commission in accordance with the commission's rules of procedure. Upon appeal, the commission shall schedule a hearing and request the owner to present evidence to support his claim. After the hearing, the commission shall determine the proper waste treatment or control facility classification.

(2) Classifications shall be of 3 types, described as physical, chemical, and biological. Each of these classifications shall be further subdivided into at least 3 subclassifications, with the more complex facilities assigned the higher numbers.

EXAMPLES OF WASTE TREATMENT
OR CONTROL FACILITIES CLASSIFICATIONS

A. PHYSICAL

Subclassification No. 1
- Plain sedimentation
- Screening
- Spray pond
- Skimming
- Gravity separation
- Flotation
- Impoundment, regulated discharge
- Impoundment, without discharge
- Land surface disposal
- Subsurface disposal
- Deep well injection

Subclassification No. 2
- Filtration
- Thermo control, cooling towers
- Incineration, land disposal
- Radioactivity monitoring
- Air flotation
- Gas stripping
- Centrifuging
- Discharge measuring and monitoring

Subclassification No. 3
- Wet oxidation
- Membrane filtration

B. CHEMICAL

Subclassification No. 1
- Sludge conditioning
- Neutralization
- Evaporation, condensation
- Adsorption
- Absorption

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Subclassification No. 2
Chemical coagulation
Precipitation
Emulsion breaking
Ion exchange
Subclassification No. 3
Chemical oxidation, reduction
Chemical recovery

C. BIOLOGICAL
Subclassification No. 1
Extended aeration
Aerated lagoons
Natural stabilization basin
Subclassification No. 2
Disinfection
Trickling filters
Aerobic and anaerobic digestion
Subclassification No. 3
Activated sludge

History: 1954 ACS 62, p. 15, Eff. May 18, 1970; 1954 ACS 77, p. 29, Eff. Sept. 21, 1973.

R 323.1254 Board of examiners.

Rule 254. The commission shall appoint a 5-member board of examiners, of which 1 member shall be a member of the staff of the commission, 1 shall be a member of the staff of the Michigan department of public health, 1 shall be an owner of a commercial or industrial enterprise which operates a waste treatment facility or an employee of such an owner, 1 shall be a holder of a certificate to operate or supervise the operation of a waste treatment facility, and 1 shall be chosen at large. Of the members first appointed, 1 shall be appointed for a term of 1 year, 2 for terms of 2 years and 2 for terms of 3 years. Thereafter, each member shall be appointed for a term of 3 years. At its first meeting in each calendar year, the board shall select from its membership a chairman and such other officers as may be needed to conduct its business. Members of the board shall be reimbursed for their actual and necessary expenses in transacting board business.

History: 1954 ACS 62, p. 16, Eff. May 18, 1970.

R 323.1255 Applications and examinations.

Rule 255. (1) A person desiring to be certified in 1 or more of the classifications shall file an application with the commission at least 30 days before the established date of the examination on an application form provided by the commission. The information included therein shall constitute a part of the examination.

(2) The board, shall, under the direction of the commission, examine applicants for certification in order to determine their ability and qualifications, at such times and places as it designates and in accordance with the provisions of these rules. Examinations shall be held at least annually. Sixty days' notice of the examination date shall be given. The board, as a result of the examination and the requirements of the act, shall recommend to the commission the issuance or non-issuance of certificates.

(3) The commission may maintain reciprocal certification with other states.

History: 1954 ACS 62, p. 16, Eff. May 18, 1970.

R 323.1256 Qualifications for certification.

Rule 256. (1) The board may recommend for certification, following an oral examination and such other examinations, including an evaluation of the applicant's experience, as the board may require, persons with the following qualifications:

(a) Minimum requirements, all types of classification no. 1:

(i) The ability to read and write.

(ii) Comprehension of the principles and problems of management of the treatment process and facilities.

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(iii) The ability to perform arithmetic calculations necessary to operate the waste treatment or control facility, and prepare the required report to the commission.

(b) Minimum requirements, all types of classification no. 2:

(i) The equivalent of a high school education with the equivalent of high school chemistry.

(ii) Comprehension of the principles and problems of management of the treatment process and facilities.

(iii) The ability to perform arithmetic calculations necessary to carry out the operation of the waste treatment or control facility, and prepare the required report to the commission.

(c) Minimum requirements, all types of classification no. 3:

(i) The equivalent of 2 years of college education in engineering, chemistry, biological sciences, or allied field. Graduation from high school and with at least 4 courses in post-high school level chemistry or biological sciences, or both, may be considered to be equivalent.

(ii) Comprehension of the principles and problems of management of the treatment process and facilities.

(2) The board may recommend for certification in an appropriate classification, without written examination, or with oral examinations at the board's option, persons having the following qualifications:

(a) Applicants who are registered professional engineers in Michigan and have at least 2 years' experience in the water pollution control or waste treatment field.

(b) Applicants who have a bachelor of science or higher degree in engineering, chemistry, biological sciences, or allied field and have at least 3 years' experience in the water pollution control or waste treatment field.

(c) Applicants who hold a classification no. 1 or no. 2 certificate, have at least 5 years' experience in the water pollution control or waste treatment field, have proved their competence in their present classification, and have successfully completed advanced courses in 1 or more of the following: chemistry, biological sciences, and waste treatment operation.

(3) Oral examinations, when held by the board, shall determine the overall knowledge of the applicant in regard to the operation of the type of facility the applicant will be responsible for, and the possible effects of discharge of untreated or inadequately treated waste upon the waters receiving the plant effluent.

(4) The commission may deny a certificate to a person who has given false information in his application or who has been guilty of fraudulent practices in his examination. This denial, or any other denial of a certificate, may be appealed from in accordance with the commission's rules of procedure.

History: 1954 ACS 62, p. 16, Eff. May 18, 1970; 1954 ACS 77, p. 30, Eff. Sept. 21, 1973.

R 323.1257 Renewal and revocation of certificates.

Rule 257. (1) A certificate is valid for 5 years from the next July 1 after the date of issuance. On or after January 1 of the year in which a certificate expires, the certified person may apply for renewal thereof. The commission may waive reexamination if the certified operator's operation record justifies such exceptions. Failure to apply for renewal shall result in termination of such certification. The commission shall notify the certified operator and the owner as to the action it has taken.

(2) If the certificate of an operator is not renewed within 30 days after its renewal date, the commission shall give notice of the nonrenewal to the owner

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and the operator and 30 days thereafter certification shall be terminated unless application for renewal has been received in the interim.

(3) The commission may revoke the certificate of a person who, after a hearing, is adjudged incompetent or unable to properly perform the duties of operator in his classification, or who has practiced fraud or falsification or who has been negligent in the discharge of his duties. Notice of revocation shall be given to the owner and to the person whose certification is being revoked.

History: 1954 ACS 62, p. 17, Eff. May 18, 1970.

R 323.1258 Persons in responsible charge and changes.

Rule 258. (1) An owner shall designate a certified operator to be in responsible charge of the day-to-day operation of each waste treatment facility, and shall inform the commission of the designation. The owner may replace the designated operator with another properly certified operator at any time and shall notify the commission within 10 days after the replacement.

(2) A certified operator who changes his address or place of employment shall notify the commission thereof within 30 days after the change.

History: 1954 ACS 62, p. 17, Eff. May 18, 1970.

R 323.1259 Reports.

Rule 259. The person in responsible charge of a waste treatment or control facility shall file with the commission, each month or at such longer interval as the commission may designate, on forms provided by the commission, operating reports showing the effectiveness of the treatment facility operation and the quantity and quality of liquid wastes discharged into any surface or ground waters or underground or on the ground other than through a public sanitary sewer. When the person in responsible charge is not available to file the report, the owner may appoint a substitute suitable to the commission to file the report.

History: 1954 ACS 62, p. 17, Eff. May 18, 1970; 1954 ACS 77, p. 30, Eff. Sept. 21, 1973.
Editor's note: R 323.1251—R 323.1259 were transferred from R 323.21—R 323.29. See 1954 ACS 72, p. 37.

PART 11. CONSTRUCTION GRANTS FOR WASTEWATER TREATMENT WORKS

R 323.1271 Purpose.

Rule 271. It is the purpose of these rules to establish policies and procedures for determining the priority of 1 municipality over another to receive state and federal financial assistance for the construction of wastewater treatment works projects.

History: 1954 ACS 81, p. 28, Eff. Oct. 28, 1974.
Editor's note: Former R 323.1271—R 323.1286, deriving from 1954 ACS 72, pp. 37-41, and 1954 ACS 76, pp. 15-17, and pertaining to state grants for treatment works, were rescinded by 1954 ACS 81, p. 32. Notwithstanding the rescission of R 323.1271—R 323.1286, those rules continue to apply to projects which received grants pursuant to their provisions.

R 323.1272 Definitions; C to F.

Rule 272. As used in this part:

(a) "Commission" means the water resources commission of the department, or its designated agent.

(b) "Designated uses" means those uses described by part 4 of the General Rules of the commission, being R 323.1041 to R 323.1116 of the Michigan Administrative Code.

(c) "Director" means the director of the department.

(d) "EPA" means the United States environmental protection agency.

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(e) "Federal act" means the federal water pollution control act (33 U.S.C. 1251 et seq.), as last amended by United States Public Law 93-243.

(f) "Finding by the commission" means a pollution abatement order; a stipulation for abatement of pollution; or a condition of a permit requiring new or increased pollution control facilities issued by the commission; or other action by the commission or the director which certifies a need for new or increased water pollution control facilities pursuant to the provisions of Act No. 245 of the Public Acts of 1929, as amended, being §§323.1 to 323.13 of the Michigan Compiled Laws, Act No. 98 of the Public Acts of 1913, as amended, being §§325.201 to 325.213 of the Michigan Compiled Laws, the state act, or the federal act.

History: 1954 ACS 81, p. 28, Eff. Oct. 28, 1974.

R 323.1273 Definitions; G to S.

Rule 273. As used in this part:

(a) "Great lakes and connecting waterways" means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, the St. Marys river, the Detroit river, the St. Clair river, Lake St. Clair, and the Keweenaw waterway.

(b) "Project" means the scope of work for which state and federal grant assistance is awarded. For the purpose of this part, the scope of work shall be defined as step 1, step 2, or step 3 of treatment works construction or segments thereof.

(c) "Public health hazard" means a serious community or areawide hazard as determined by the commission based on evidence and documentation supplied by the applicant.

(d) "Seven day, 10-year drought flow" means the annual minimum average flow for 7 consecutive days which has a 90% chance of being equalled or exceeded in any year.

(e) "Sewage discharge" means the discharge of sanitary wastes from a residence, commercial establishment, industrial plant, or institution. The discharge may be in combination with industrial wastes or storm waters.

(f) "State act" means Act No. 329 of the Public Acts of 1966, as amended, being §§323.111 to 323.128 of the Michigan Compiled Laws.

(g) "Stream segment" means that portion of a river, stream, or lake of the state which makes up the receiving water for a wastewater discharge.

History: 1954 ACS 81, p. 28, Eff. Oct. 28, 1974.

R 323.1275 Grant application and hearing procedures.

Rule 275. (1) Grant applications shall be filed pursuant to the provisions of subsection (2) of section 16 of the state act on forms prescribed by EPA. The commission, at its discretion, may require separation or combination of applications or application amendments.

(2) The basic application (step 1, preparation of facilities plans and related elements) and amendments to the basic application for subsequent related projects (step 2, preparation of construction drawings and specifications; and step 3, fabrication and building of a treatment works) shall be filed in the same 3-step sequence in which the construction of treatment works is generally accomplished and shall meet the requirements prescribed by R 323.1276.

(3) Pre-application assistance, including, where appropriate, a pre-application conference, may be requested by the applicant from the commission or EPA.

History: 1954 ACS 81, p. 29, Eff. Oct. 28, 1974.

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R 323.1276 Application contents and amendments.

Rule 276. (1) The basic grant application and subsequent application amendments shall include the items specified in the federal construction grant regulations. (Title 40, Chapter 1, subchapter B, Part 35, subpart E, Section 35.920-3(a)(b)(c)). A copy of these regulations shall be provided each prospective applicant along with the application forms.

(2) In addition to the items required by subrule (1), applications for step 1 grants shall include the following information:

(a) The proposed service area.

(b) The estimated existing population of the proposed service area and the basis of estimate.

(c) The estimated average daily sewage discharge and the basis of the estimate.

(d) The point of discharge to the surface or groundwaters of the state. In the case of a discharge to a surface water, the name thereof shall be provided.

History: 1954 ACS 81, p. 29, Eff. Oct. 28, 1974.

R 323.1278 Priority establishment; classification of step 1 projects.

Rule 278. Applications for step 1 grants shall be classified according to the nature of the waste discharge or the nature of the pollution problem to be corrected, or both, by a proposed project. The order of priority shall be classified as follows:

(a) Projects which are necessary to eliminate or correct a sewage discharge pursuant to a finding by the commission.

(b) Projects which will eliminate or correct documented serious public health hazards in sewered or unsewered communities.

(c) Projects which will permit the lifting of a sewer ban invoked pursuant to the provisions of Act No. 98 of the Public Acts of 1913, as amended.

(d) Projects which are necessary to correct a stormwater discharge pursuant to a finding by the commission.

(e) Projects which will correct a discharge of combined sewage.

(f) All other projects.

History: 1954 ACS 81, p. 29, Eff. Oct. 28, 1974.

R 323.1279 Priority establishment; project ranking within classes of step 1 grants.

Rule 279. (1) Projects classified in accordance with R 323.1278 shall be assigned priority points within classes subject to the following criteria and procedures:

(a) Population served ranking points. The present population to be served by each project shall be determined and listed in descending order of magnitude. The largest population shall be awarded n points where n is equal to the total number of applications. The second largest population shall be awarded n-1 points, and other projects in descending order down to the smallest population which shall be awarded 1 point.

(b) Designated use points. Priority points shall be assigned to each project based on the designated use of the surface receiving waters below the wastewater discharge. On-land disposal systems which are incapable of discharging to surface waters shall be assigned points for a groundwater discharge. Priority points shall be assigned as follows:

(i) Domestic water supply—groundwater discharge: 1.0 X n.

(ii) Domestic water supply—surface water discharge: 1.0 X n.

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(iii) Total body contact and coldwater fish species: .67 X n.

(iv) Total body contact and warmwater fish species: .5 X n.

(v) Partial body contact and coldwater fish species: .5 X n.

(vi) Partial body contact and warmwater fish species: .33 X n where n is equal to the total number of applications.

(c) Drought flow ratio ranking points. Priority points shall be assigned each project by first determining the ratio of either the annual average daily sewage discharge, or the monthly average daily sewage discharge during anticipated drought flow time periods, whichever is greater, to the 7-day, 10-year drought flow in the receiving waters immediately above the point of discharge. The ratios shall then be ranked in descending order with the largest ratio awarded n points, where n is equal to the total number of applications. The next largest ratio shall be awarded n-1 points and others in descending order down to the smallest ratio which shall be awarded 1 point. The 7-day, 10-year drought flow for the Great Lakes and the groundwaters of the state shall be considered to be infinite for purposes of this calculation. The drought flow of lakes other than the Great Lakes shall be considered to be the 7-day, 10-year drought flow of the main river or stream flowing out of the lake. If a lake has no outflowing river or stream, the lake shall be considered to have a 7-day, 10-year drought flow equal to zero.

(d) High quality effluent points. Each project shall be evaluated to determine if an effluent quality greater than secondary treatment with phosphorus removal is required. Secondary treatment is as defined in 40 C.F.R. 133, section 102, or any subsequent amendment thereto. All projects requiring greater than secondary treatment with phosphorus removal shall receive .5 times n points, where n is equal to the total number of applications listed. Projects which do not require more than secondary treatment with phosphorus removal shall have zero points added to their points total. Grant applications from a local governmental unit where no treatment facility currently exists shall be similarly evaluated to determine if the proposed treatment facility will require greater than secondary treatment with phosphorus removal.

(e) Great Lakes and connecting waterway discharge points. Priority points shall be assigned to each project which discharges wastewater directly to the Great Lakes or their connecting waterways. Projects discharging to the Great Lakes and their connecting waterways shall receive n points where n is equal to the total number of applications.

(f) Groundwater disposal points. Priority points shall be assigned to each project which proposes to use a disposal system which is incapable of discharging to surface waters. Those projects shall be assigned .5 X n points, where n is equal to the total number of applications.

(g) Segment priority points. Priority points shall be assigned to each project based on the stream segment priority ranking for the receiving waters as contained in the latest approved continuing planning process. The following formula shall be used to determine the priority points to be assigned:

Segment rank points = .01n (A—X)

Where n is equal to the total number of applications.

A is the total number of segments.

X is the segment rank for the area in which the project is located.

(2) The total priority points assigned to each project, within classes, shall be the sum of the points determined from the 7 factors defined in subrule (1). The ranking within each class shall be in numerically descending order with the project receiving the highest total points at the top of the ranking. Ties within classes shall be eliminated by assigning the higher ranking first to the project with

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the larger population and second to projects with the greater daily wastewater discharge.

History: 1954 ACS 81, p. 29, Eff. Oct. 26, 1974.

R 323.1280 Priority establishment; assignment of total priority points to step 1 grant projects.

Rule 280. (1) Weighted factors shall be assigned to each of the classes described in R 323.1278 in accordance with the following schedule:

(a) Class—1 weighted factor 2.0.
(b) Class—2 weighted factor 1.8.
(c) Class—3 weighted factor 1.6.
(d) Class—4 weighted factor 1.4.
(e) Class—5 weighted factor 1.2.
(f) Class—6 weighted factor 1.0.

(2) Total priority points assigned to each project shall be the product of the weighted factor prescribed by subrule (1) derived from the classification of each project times the sum of 7 factors used to rank the projects within the assigned class.

History: 1954 ACS 81, p. 30, Eff. Oct. 26, 1974.

R 323.1283 Step 2 and step 3 grants.

Rule 283. (1) A yearly evaluation of treatment works projects which are included in a facilities plan and which otherwise conform to all applicable state and federal statutory and regulatory requirements shall precede the assignment or priority points. The evaluation shall establish single projects or a multiple number of projects which will provide a systematic solution to the cost-effective conclusions determined by each facilities plan.

(2) Projects which have been established by the evaluation of an approved facilities plan shall be classified according to class (a) of subsection (2) of section 12 of the state act.

(3) Priority point assignments for all projects in class (a) of subsection (2) of section 12 of the state act shall be in accordance with and subject to the procedures for the establishment of priorities for applications for step 1 grants as prescribed by R 323.1278 to R 323.1280.

History: 1954 ACS 81, p. 31, Eff. Oct. 26, 1974.

R 323.1284 Priority list establishment.

Rule 284. (1) Prior to January 1 of each year, the commission shall assign priority points to each step 1 application and each project eligible for a step 2 or step 3 application amendment.

(2) The listing of projects in order of priority shall be accomplished by assembling a single list of step 1, step 2, step 3 projects in numerically descending order using the total priority points assigned to each project, beginning with the project with the highest total priority points at the top. If 2 or more projects receive the same priority point total, the project which is assigned to the higher class shall be deemed to be higher in priority.

(3) Where 2 or more dependent projects of different priority ranking are proposed by 2 or more political subdivisions within the scope of 1 facilities plan, they shall be assigned the same priority as the highest ranked member of the group.

(4) Following preparation of the lists, the commission shall schedule and hold 1 or more public hearings for the purpose of affording applicants adequate

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opportunity to comment and express their views thereon. After consideration of the comments and views expressed at the public hearings, the commission shall formally approve the lists and shall identify the applications and application amendments proposed for funding. Hearings conducted pursuant to this subrule shall be in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws, and regulations promulgated by EPA pursuant to the federal act.

(5) Prior to January 15 of each year, the approved priority lists identifying the applications proposed for funding shall be submitted to both houses of the legislature and to the appropriations committees thereof.

History: 1954 ACS 81, p. 31, Eff. Oct. 26, 1974.

R 323.1285 Reservation of funds for step 1 grants.

Rule 285. (1) Commencing with fiscal year 1975 and continuing each fiscal year thereafter, the commission may reserve not more than 10% of each year's grant allotment to the state for the purpose of providing financial assistance to eligible municipalities for step 1 grants.

(2) The percentage of the state's grant allotment to be reserved for this purpose shall be determined annually by the commission after considering such factors as the total amount of grant funds available for allocation in relation to the needs for funding projects for step 2 and step 3 grant amendments.

(3) The number of projects approved annually for step 1 grants shall be sufficient to assure an orderly flow of projects for step 2 and step 3 grant amendments in subsequent fiscal years.

(4) If any reserved amounts are not fully utilized for step 1 grants, the excess amount may be utilized for the funding of step 2 or step 3 grant amendments in accordance with the approved project list.

History: 1954 ACS 81, p. 31, Eff. Oct. 26, 1974.

R 323.1286 Reservation of funds for grant increases.

Rule 286. (1) In developing the project priority list, the commission shall make provisions for grant increases for projects awarded grant assistance by providing for not less than 5% of each yearly federal allotment for those increases.

(2) If any reserved amounts are not fully utilized for grant increases, the excess amount may be utilized for the funding of step 2 or step 3 grant amendments in accordance with the approved project list.

History: 1954 ACS 81, p. 32, Eff. Oct. 26, 1974.

R 323.1287 Certification of applications to EPA.

Rule 287. (1) Except as hereinafter provided, certification of applications to EPA for step 1 grants or for step 2 or step 3 grant amendments shall be in accordance with and subject to subsections (4) and (5) of section 16 of the state act.

(2) Whenever 2 or more applications are received for step 1 projects which the commission determines fall within the scope of 1 facilities planning area, those projects shall not be certified to EPA until 1 applicant for the facilities planning area has been mutually agreed upon. If agreement cannot be reached, the commission shall designate the lead applicant. A facilities plan for an area may be prepared by 1 or more units of government or consultants, or both, but shall be compiled into a single facilities plan for the area upon completion of the studies by the designated lead applicant.

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(3) Certification of an application for a step 1 grant, or approval of a facilities plan prepared with a step 1 grant, shall not constitute an obligation for subsequent funding of a step 2 or step 3 grant amendment by the commission or EPA or both.

History: 1954 ACS 81, p. 32, Eff. Oct. 26, 1974.

R 323.1288 Rescission.

Rule 288. (1) Part 11 of the general rules of the commission, being R 323.1271 to R 323.1286 of the Michigan Administrative Code, is rescinded, except that part 11 shall continue to apply to those projects which receive grants pursuant to the provisions of part 11.

(2) Part 12 of the general rules of the commission, being R 323.1291 to R 323.1306 of the Michigan Administrative Code is rescinded, except that part 12 shall continue to apply to projects previously funded under the provisions of Act No. 159 of the Public Acts of 1969, as amended, being §§323.401 to 323.412 of the Michigan Compiled Laws.

History: 1954 ACS 81, p. 32, Eff. Oct. 26, 1974.

PART 12. STATE GRANTS FOR COLLECTING SEWERS

R 323.1291—R 323.1306 Rescinded.

History: 1954 ACS 72, pp. 41-45, Eff. June 22, 1972; rescinded 1954 ACS 81, p. 32, Eff. Oct. 26, 1974.

Editor's note: Notwithstanding the rescission of R 323.1291—R 323.1306, those rules continue to apply to projects previously funded under the provisions of Act No. 159 of the Public Acts of 1969, as amended, being §323.401 et seq. of the Michigan Compiled Laws.

PART 13. FLOODPLAINS AND FLOODWAYS

R 323.1311 Definitions.

Rule 311. As used in this part:

(a) "A 100-year flood" means a flood which has a 1% chance of occurring or being exceeded in any given year.

(b) "Bridge" means a structure with a total clear span of more than 20 feet, measured along the centerline of the roadway over a stream, watercourse, or opening.

(c) "Commission" means the Michigan natural resources commission.

(d) "Culvert" means a structure, not classified as a bridge, which provides an opening under the roadway.

(e) "Department" means the Michigan department of natural resources.

(f) "Director" means the director of the Michigan department of natural resources.

(g) "Encroachment" means any structure, deposit, or fill in, along, across, or projecting into a floodplain, channel, or floodway.

(h) "Floodplain" means that area of land adjoining a river or stream which will be inundated by a 100-year flood.

(i) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.

(j) "Harmful interference" means causing an unnaturally high stage or unnatural direction of flow on a river or stream which causes, or may cause, damage to property, a threat to life, a threat of personal injury, or a threat to water resources.

(k) "Water management division" means the Michigan department of natural resources' water management division.

History: 1954 ACS 72, p. 46, Eff. June 22, 1972; 1954 ACS 93, p. 25, Eff. Oct. 21, 1977.

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R 323.1312 Exceptions.

Rule 312. This part does not apply to:

(a) A watershed, the total drainage area of which, measured from the downstream limits of the proposed site, is less than 2 square miles.

(b) An improvement proposed under Act No. 40 of the Public Acts of 1956, as amended, being §280.1 et seq. of the Michigan Compiled Laws.

(c) A flood control project designed by the U.S. army corps of engineers.

(d) A flood control project designed by the U.S. soil conservation service.

(e) Bridge or culvert replacements, upon certification by the owner or by the owner's engineering consultant that the replacement is designed with an equal or greater hydraulic capacity; that available information does not indicate the occurrence of harmful interference caused by the existing bridge or culvert and its approaches; and that deletion of existing auxiliary openings and road overflow areas are not planned.

(f) New bridges or culverts, upon certification by the owner or by the owner's engineering consultant that the bridge or culvert is designed to pass the 100-year flood as determined by the commission without causing harmful interference. Preliminary bridge or culvert plans, hydraulic waterway design calculations and construction methods, and procedures covering protection of natural resources shall be furnished with the certification to the department.

History: 1954 ACS 72, p. 46, Eff. June 22, 1972; 1954 ACS 93, p. 28, Eff. Oct. 21, 1977.

R 323.1313 Permit application; information.

Rule 313. (1) An application to the department for a permit to occupy, fill, or grade lands in a floodplain, streambed, or channel of a stream shall be in letter form or on an application form obtained from the water management division and signed by the person proposing the development or activity or his authorized representative, and shall be filed in duplicate with the water management division.

(2) An applicant for a permit to place an encroachment not excluded under R 323.1312 in a floodplain, channel, or floodway shall submit a site location and a property map showing limits of the proposed encroachment as it relates to the drainage course.

(3) The water management division may ask for the following information in order to analyze the effects that a proposed encroachment, acting alone or in combination with existing or future similar works, has on stage or discharge characteristics of the stream:

(a) A site development plan showing both existing and proposed conditions on a topographic map and containing the following information:

(i) Location map.

(ii) Property lines.

(iii) Road right-of-way, drainage, and utility easements.

(iv) Existing and proposed contours at sufficient intervals to adequately describe the existing features and the proposed alterations.

(v) Proposed bridges, culverts, and storm water outfalls. Plans or sketches shall be included to provide sufficient information for evaluation.

(vi) Proposed channel relocations and the limits of improvements and alterations.

(vii) Delineation of proposed cut and fill limits.

(viii) Approximate volume of cut and fill.

(ix) Proposed elevations of roads and buildings, including elevations of first floor and basement openings into building.

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(b) River valley cross-sections at locations where the proposed alteration or occupation is most significant. The cross-sections shall show both existing conditions and the proposed occupation or alteration, and shall specify cut and fill side slopes. Representative photographs of the natural channel and overbank areas shall be included.

(c) A hydraulic report, based on backwater curve computations, which evaluates the effect of the proposed encroachment on stage and discharge characteristics for a range of discharges up to and including the 100-year flood discharge. The report shall be prepared by a registered professional engineer.

History: 1954 ACS 72, p. 47, Eff. June 22, 1972; 1954 ACS 93, p. 26, Eff. Oct. 21, 1977.

R 323.1314 Determination of floodplain and floodway limits.

Rule 314. (1) If published floodplain delineation reports are currently acceptable to the water management division, the 100-year flood identified in the reports shall be used to define the limits of the floodplain and the floodway. The study shall be modified to reflect the effects of future urbanization in the watershed whenever the water management division deems it appropriate.

(2) If floodplain delineation reports are not available, the water management division shall determine the 100-year frequency flood discharge. This determination shall reflect the effect of future urbanization in the watershed and shall be used to define the limits of the floodplain and the floodway.

History: 1954 ACS 72, p. 47, Eff. June 22, 1972; 1954 ACS 93, p. 27, Eff. Oct. 21, 1977.

R 323.1315 Criteria for determining permissibility of encroachments.

Rule 315. (1) An encroachment in the floodway which, acting alone or in combination with existing or future similar works, may cause harmful interference, shall not be approved.

(2) A bridge or culvert, constructed or reconstructed, shall be capable of passing the 100-year flood without causing harmful interference.

(3) An encroachment in the floodplain, landward of the floodway limits, which, acting alone or in combination with existing or future similar works, does not cause harmful interference may be permitted.

History: 1954 ACS 72, p. 47, Eff. June 22, 1972; 1954 ACS 93, p. 27, Eff. Oct. 21, 1977.

R 323.1329 Hearings.

Rule 329. When the department determines that a person has occupied lands in a floodplain or has undertaken or engaged in activity thereon or in a streambed or channel which harmfully interferes with the discharge or stage characteristics of a stream, the director may file a complaint with the commission which, acting on his complaint, shall appoint a hearings officer and set a date for the hearing on the facts. A notice of the hearing shall be sent by certified mail to the person responsible for the alleged violation. The notice shall contain a statement of the specific violation and measures which the commission deems appropriate to assure correction of the problem. Following the hearing, the hearings officer shall file with the commission a proposal for decision.

History: 1954 ACS 72, p. 47, Eff. June 22, 1972; 1954 ACS 93, p. 27, Eff. Oct. 21, 1977.

PART 14. SHORELANDS

R 323.1331—R 323.1345 Rescinded.

History: 1954 ACS 72, p. 48, Eff. June 22, 1972; rescinded 1954 ACS 78, p. 15, Eff. Jan. 12, 1974.

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PART 15. IRON ORE BENEFICIATION

R 323.1351 Definition.

Rule 351. As used in this part, "beneficiation act" means Act No. 143 of the Public Acts of 1959, being §§323.251 to 323.258 of the Michigan Compiled Laws.

History: 1954 ACS 72, p. 49, Eff. June 22, 1972.

R 323.1352 Applications.

Rule 352. An application filed under the beneficiation act for a permit to drain, divert, control or use water for the operation of low grade iron ore mining property shall be in letter form, supplemented by maps, charts, and data, setting forth in detail the location of the mining property, the necessity for the proposed water use development, the waters to be affected thereby including information on the points of drainage, diversion, control or use, the natural conditions and variations of the waters involved and the effects thereon from the proposed development. The application shall be signed by the operator of the mining property or his duly authorized representative and shall be filed in duplicate with the executive secretary of the commission.

History: 1954 ACS 72, p. 49, Eff. June 22, 1972.

R 323.1353 Permits.

Rule 353. A permit issued under the beneficiation act for diversion or control of water is valid only during such times as the permittee maintains in proper operation devices to measure and record:

(a) The amount of water being diverted.

(b) The flow in streams below the diversion or control, if the permit is conditioned on reservation or maintenance of a specified minimum stream flow.

History: 1954 ACS 72, p. 49, Eff. June 22, 1972.

R 323.1354 Hearings.

Rule 354. (1) The 2 notices of hearings required by the beneficiation act shall be published at intervals of 1 week or more and the last notice shall be published 2 weeks before the scheduled hearing date.

(2) All evidence, including records and documents in possession of the commission of which it desires to avail itself, and excepting those materials excluded by section 22 of Act No. 306 of the Public Acts of 1969, shall be offered at the public hearing and made a part of record in a case brought under the beneficiation act. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. A hearing may be continued as necessary to permit the submittal of additional evidence. A permit will not be issued in a case where the commission deems the evidence submitted to be insufficient for determining that its exercise would not unreasonably impair the interest of the public or of riparians in lands or waters or the beneficial use thereof and would not endanger the public health or safety.

(3) Procedures for hearings shall be those as provided in part 3 of the general rules.

History: 1954 ACS 72, p. 50, Eff. June 22, 1972.

PART 17. SOIL EROSION AND SEDIMENTATION CONTROL

R 323.1701 Definitions.

Rule 701. (1) As used in this part:

(a) "Accelerated soil erosion" means the increased loss of the land surface that occurs as a result of man's activities.

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(b) "Acceptable operating erosion and sediment control program" means a soil erosion and sedimentation control ordinance or a program formally approved by the commission, which in the commission's judgement is providing effective soil erosion and sedimentation control, inspection, enforcement and sediment pollution abatement or prevention.

(c) "Soil erosion control facility" means a facility or measure placed or constructed as necessary for the successful control or abatement of accelerated soil erosion.

(d) "Non-erosive velocity" means a speed of water movement which is not conducive to the development of accelerated soil erosion.

(e) "Sediment act" means Act No. 347 of the Public Acts of 1972, being §§282.101 to 282.117 of the Michigan Compiled Laws.

(f) "Stabilization" means the proper placement grading or covering of soil or rock to insure their resistance to soil erosion, sliding, or other earth movement.

(g) "Temporary soil erosion control measures" means interim control measures which are installed or constructed to control soil erosion and which are maintained after project completion.

(h) "Permanent soil erosion control measures" means those control measures which are installed or constructed to control soil erosion and which are maintained after project completion.

(2) The terms defined in the sediment act have the same meanings when used in these rules.

History: 1954 ACS 81, p. 32, Eff. Jan. 1, 1975.

R 323.1702 General requirements.

Rule 702. (1) Any earth changes identified in R 323.1705 shall be conducted in such a manner which will effectively reduce accelerated soil erosion and resulting sedimentation.

(2) All persons engaged in earth changes identified in R 323.1704 shall design, implement, and maintain acceptable soil erosion and sedimentation control measures in conformance with the sediment act, which effectively reduce accelerated soil erosion.

(3) Soil erosion and sedimentation control measures shall be set forth in a plan as prescribed by R 323.1703. The plan shall be made available for inspection at all times at the site of the earth change. The commission or its designated representative may require the county or local enforcing agency to file a copy of the plan with the commission.

(4) A state prescribed permit, as required by R 323.1705 and R 323.1706 shall be obtained and made available for inspection at the site of the earth change.

History: 1954 ACS 81, p. 33, Eff. Jan. 1, 1975.

R 323.1703 Soil erosion and sedimentation control plan requirements.

Rule 703. A soil erosion and sedimentation control plan shall be prepared for any earth change identified in R 323.1705. The plan shall be designed to effectively reduce accelerated soil erosion and sedimentation, and shall identify factors which may contribute to soil erosion or sedimentation or both. The plan shall include, but not be limited to, the following, unless other information is required by the county or local enforcing agency:

(a) A map or maps at a scale of not more than 200 feet to the inch or as otherwise determined by the county or local enforcing agency including a legal description and site location sketch which includes the proximity of any proposed

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earth change to lakes or streams, or both; predominant land features; and contour intervals or slope description.

(b) A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.

(c) Details for proposed earth changes including:

(i) A description and the location of the physical limits of each proposed earth change.

(ii) A description and the location of all existing and proposed on-site drainage facilities.

(iii) The timing and sequence of each proposed earth change.

(iv) A description and the location of all proposed temporary soil erosion control measures.

(v) A description and the location of all proposed permanent soil erosion control measures.

(vi) A program proposal for the continued maintenance of all permanent soil erosion control facilities which remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.

History: 1954 ACS 81, p. 33, Eff. Jan. 1, 1975.

R 323.1704 Permit requirements.

Rule 704. (1) A land owner or developer who contracts for, allows or engages in an earth change in this state shall obtain a permit from the appropriate enforcing agency prior to commencement of an earth change which is connected with any of the following land use activities which disturb 1 or more acres of land, or if the earth change is within 500 feet of a lake or stream of this state:

(a) Transportation facilities, including streets, highways, railroads, airports, common carrier pipelines, and mass transit facilities, except normal maintenance procedures, such as earth or gravel road leveling and minor repairs or alterations to rights-of-way not affecting a lake or stream.

(b) Subdivision or lot development as defined by section 102 of Act No. 288 of the Public Acts of 1967, being §560.102 of the Michigan Compiled Laws, mobile home parks and multiple housing, and the preparation of a site for a single family residence and except normal maintenance on landscaping activities, or both.

(c) Industrial or commercial development, except normal maintenance or landscaping activities, or both.

(d) Service facilities, including, but not limited to, shopping centers and schools, except normal maintenance or landscaping activities, or both.

(e) Recreational facilities, including, but not limited to, parks, campgrounds or trails, except normal maintenance or landscaping activities, or both.

(f) Utilities, including, but not limited to, underground pipelines or cables, except pole installation, service lines, and other earth changes of a minor nature, normal maintenance, and emergency repairs.

(g) Oil, gas, and mineral wells, except the installation of those wells under permit from the supervisor of wells and wherein the owner-operator is found by supervisor of wells to be in compliance with the conditions of the sediment act.

(h) Water impoundments and waterway construction or improvements.

(2) Exemptions provided in subrule (1) shall not be construed as exemptions from enforcement procedures pursuant to the sediment act or these rules, if the activities exempted by subrule (1) cause or result in a violation of the sediment act or these rules.

History: 1954 ACS 81, p. 33, Eff. Jan. 1, 1975.

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R 323.1705 Permit exemptions.

Rule 705. Unless it is determined by the commission that an earth change project is creating a severe soil erosion or sedimentation problem, the requirements of R 323.1703 and R 323.1704 are not applicable to existing projects involving earth changes on which firm bids have been taken or awarded within 60 days of the effective date of these rules.

History: 1954 ACS 81, p. 34, Eff. Jan. 1, 1975.

R 323.1706 Application for permit.

Rule 706. (1) An application for a state prescribed permit shall be submitted to the appropriate enforcing agency by a person proposing to undertake an earth change. In case of land development, the application shall be submitted by the land owner, land developer, or, in his absence, an agent authorized by the land owner or developer.

(2) The application shall be accompanied by an approved soil erosion and sedimentation control plan and any other document which the appropriate enforcing agency may require.

(3) A state prescribed application form shall be provided to the applicant by the county or local enforcing agency.

(4) An authorized public agency is exempt from obtaining a permit from a county or local enforcing agency but shall notify the county or local enforcing agency of each proposed earth change.

History: 1954 ACS 81, p. 34, Eff. Jan. 1, 1975.

R 323.1707 Application review and permit procedures.

Rule 707. (1) The soil erosion and sedimentation control plan shall be reviewed and approved prior to application for a permit by a person designated by the county or local enforcing agency who is trained and experienced in soil erosion and sedimentation control methods and techniques.

(2) The appropriate enforcing agency shall approve, disapprove, or require modification of an application for an earth change permit within 30 calendar days following receipt of the application. Notification of approval shall be made by certified mail. If disapproved, the enforcing agency shall advise the applicant by certified mail of its reasons for disapproval and conditions required for approval. Notification of approval or disapproval by certified mail is not necessary if the applicant is given in person, in writing, approval or disapproval of the application. A permit given to the applicant either in person or by certified mail shall constitute approval.

(3) When an earth change is under the jurisdiction of 2 or more local or county enforcing agencies the commission shall act as the enforcing agency.

(4) A state prescribed permit shall be used by each county or local enforcing agency and shall include any additional provisions which may be required by the county or local enforcing agency. The permit shall be available on the site of the earth change for inspection.

(5) Upon a determination that a permit applicant has met all the requirements of these rules, the sediment act and the local ordinance, if applicable, the appropriate enforcing agency shall issue a permit for the proposed earth change.

History: 1954 ACS 81, p. 34, Eff. Jan. 1, 1975.

R 323.1708 Soil erosion and sedimentation control procedures and measures; general.

Rule 708. Soil erosion and sedimentation control procedures and measures prescribed by R 323.1709 and R 323.1710 shall be appropriately incorporated into

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the soil erosion and sedimentation control plan and shall be applied to all earth changes identified therein, unless the person preparing the plan shows to the satisfaction of the appropriate enforcing agency that any alteration of the control procedures or measures, or the inclusion of other control procedures or measures, will prevent accelerated soil erosion and sedimentation during the earth change.

History: 1954 ACS 81, p. 35, Eff. Jan. 1, 1975.

R 323.1709 Earth change requirements.

Rule 709. (1) All earth changes shall be designed, constructed, and completed in such a manner which shall limit the exposed area of any disturbed land for the shortest possible period of time as determined by the county or local enforcing agency.

(2) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change.

(3) Any temporary or permanent facility designed and constructed for the conveyance of water around, through or from the earth change area shall be designed to limit the water flow to a non-erosive velocity.

(4) Temporary soil erosion control facilities shall be removed after permanent soil erosion measures have been implemented. All earth change areas shall be graded and stabilized with permanent soil erosion control measures pursuant to approved standards and specifications as prescribed by R 323.1710.

(5) Permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area shall be completed within 15 calendar days after final grading or the final earth change has been completed. When it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion control measures shall be implemented within 30 calendar days. All temporary soil erosion control measures shall be maintained until permanent soil erosion control measures are implemented.

History: 1954 ACS 81, p. 35, Eff. Jan. 1, 1975.

R 323.1710 Soil conservation district standards and specifications.

Rule 710. Current local soil conservation district soil erosion and sedimentation control standards and specifications or revisions thereof, as approved by the local or county enforcing agency in consultation with the local soil conservation district, shall be followed and utilized as they apply to an individual earth change which requires an erosion and sedimentation control plan.

History: 1954 ACS 81, p. 35, Eff. Jan. 1, 1975.

R 323.1711 Building permits.

Rule 711. (1) A local agency or general law township which issues building permits shall notify the county or local enforcing agency immediately upon receipt of an application for a building permit requiring an earth change which disturbs any land located within 500 feet of a lake or stream of this state.

(2) A local agency or general law township shall not issue a building permit to a person engaged in an earth change which requires a permit under the sediment act or these rules until the county or local enforcing agency has issued the required state prescribed permit for the earth change.

History: 1954 ACS 81, p. 35, Eff. Jan. 1, 1975.

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R 323.1712 Enforcement.

Rule 712. The county or local enforcing agency shall issue a cease and desist order and shall revoke a permit upon its finding that there is a violation of the sediment act, these rules, or an approved local ordinance, or that there is a violation of a permit or an approved soil erosion and sedimentation control plan.

History: 1954 ACS 81, p. 36, Eff. Jan. 1, 1975.

R 323.1713 Periodic review.

Rule 713. The commission, in consultation with the department, shall conduct an ongoing comprehensive review and evaluation of all soil erosion and sedimentation control programs which operate under the sediment act and these rules. County and local enforcing agencies shall be notified by the commission as to the acceptability of their soil erosion and sedimentation control programs. The commission shall provide a public report of its findings of the review and evaluation of those enforcing agencies not in compliance and shall provide for public comment thereon at a regularly scheduled meeting thereof.

History: 1954 ACS 81, p. 36, Eff. Jan. 1, 1975.

R 323.1714 Availability of documents.

Rule 714. Copies of standards and specifications for soil erosion and sedimentation control, as referred to in R 323.1710, are published by statewide soil conservation districts and are available at each district office at a nominal cost.

History: 1954 ACS 81, p. 36, Eff. Jan. 1, 1975.

PART 21. WASTEWATER DISCHARGE PERMITS

R 323.2101 Purpose.

Rule 1101. (1) These rules are promulgated to implement the 1972 amendments to the commission act which authorized the initiation of a waste or waste effluent discharge permit system compatible with the national pollutant discharge elimination system (NPDES). The NPDES has been initiated by the federal Congress through the enactment of the federal water pollution control act amendments of 1972 (United States Public Law 92-500). The rules outline in general:

(a) The procedures by which all persons discharging wastes into the waters of the state shall apply for waste or waste effluent discharge permits as required by the commission act.

(b) Exceptions to procedural requirements.

(c) Public participation procedures and hearings on permit applications.

(d) Procedures by which permits are issued or denied by the commission.

(e) Appeals procedures.

(f) Permit conditions and monitoring of waste or wastewater discharges.

(2) The promulgation of these rules, in association with the commission act, as amended, provides sufficient authority to the state, upon approval by the United States environmental protection agency, to issue permits for waste or wastewater discharges under the NPDES pursuant to section 402(b) of the United States Public Law 92-500. The water resources commission is the state agency designated by state law to administer this program.

History: 1954 ACS 77, p. 31, Eff. Oct. 17, 1973.

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R 323.2102 Definitions; A to F.

Rule 1102. As used in this part:

(1) "Applicant" means a person applying to the commission for a state or national permit to discharge wastes or wastewaters into the waters of the state by an NPDES application form, a state permit application form, or a refuse act permit application form.

(2) "Application" means the uniform national NPDES application form, including subsequent additions, revisions, or modifications thereof promulgated by the administrator of EPA, and adopted for use by the commission, or a state permit application form, for application for a permit.

(3) "Discharge" means any discharge or discharge of any waste, waste effluent, wastewater, or pollutant, or any combination thereof, into any of the waters of the state or upon the ground.

(4) "Discharger" means any person who discharges any substance defined by section 6 of the commission act, any treated or untreated waste, waste effluent, wastewater or pollutant, or cooling waters into any of the waters of the state or upon the ground.

(5) "Draft permit" means a draft of a permit proposed to be issued by the commission, prepared by staff of the commission prior to public notice of an application for a permit by a discharger, which contains proposed effluent standards and limitations, proposed compliance schedules and other proposed conditions or restrictions deemed necessary by the commission for a discharge.

(6) "EPA" means the United States environmental protection agency.

(7) "Effluent standards and limitations" means all state or federal effluent standards and limitations on quantities, rates and concentrations of chemical, physical, biological and other constituents to which a waste or wastewater discharge may be subject under the federal act or the commission act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, pretreatment standards, and schedules of compliance.

(8) "Executive secretary" means the executive secretary of the commission.

(9) "Fact sheet" means a description of a discharge available to the public prepared by the commission pursuant to the guidelines, which includes, but is not limited to, information on the location of the discharge, rate or frequency of the discharge, components of the discharge, proposed determinations of the commission regarding the discharge, the location and identification of uses of the receiving waters, water quality standards, and procedures for formulation of final determinations on the discharge by the commission.

(10) "Federal act" means United States Public Law 92-500, entitled the federal water pollution control act amendments of 1972 and rules and regulations promulgated thereunder.

History: 1954 ACS 77, p. 31, Eff. Oct. 17, 1973.

R 323.2103 Definitions; G to N.

Rule 1103. As used in this part:

(1) "Guidelines" means the federal guidelines promulgated by EPA entitled "Part 124—State Program Elements Necessary for Participation in the National Pollutant Discharge Elimination System," as published in 40 C.F.R. 124.

(2) "Industry" means a private person, corporation, firm, plant, or establishment which discharges waste or wastewater into the waters of the state.

(3) "Mailing list" means a permanent list of persons requesting notification and information on public hearings, permits and other NPDES forms, prepared and maintained by the commission pursuant to the guidelines, these rules, and Act No.

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306 of the Public Acts of 1969, as amended, being §§24.201 to 24.315 of the Michigan Compiled Laws.

(4) "Management agency" means an areawide waste treatment management agency designated by the governor pursuant to section 208(a) of the federal act.

(5) "Minor discharge" means a discharge of wastewater which has a total volume of less than 50,000 gallons on every day of the year, does not affect the waters of another state, and is not identified by the commission, the regional administrator, or by the administrator of EPA in regulations issued by him pursuant to section 307(a) of the federal act, as a discharge which is not a minor discharge, except that in the case of a discharge of less than 50,000 gallons on any day of the year which represents 1 of 2 or more discharges from a single person, municipality, or industry which in total exceeds 50,000 gallons on any day of the year, then no discharge from the facility is a minor discharge.

(6) "New source" means a building, structure, facility, or installation from which waste, pollutants, or wastewater is or may be discharged into the surface or ground waters of the state or on the ground, the construction of which is commenced after publication of proposed regulations by EPA prescribing a standard of performance under section 306(a) of the federal act which will be applicable to the source, if the standard is thereafter promulgated in accordance with section 306 of the federal act.

(7) "NPDES" means the national pollutant discharge elimination system established by the federal act.

(8) "NPDES form" means any issued permit and any uniform national form used by the commission, developed for use in the NPDES and prescribed in regulations promulgated by the administrator of EPA, including an NPDES application, a refuse act permit application, and a reporting form.

(9) "National permit" means an NPDES permit, or equivalent document or requirements, issued by the commission to a discharger pursuant to sections 5 and 7 of the commission act, for discharges into surface waters.

(10) "Noncompliance list" means a list of dischargers, prepared by the executive secretary pursuant to these rules and the guidelines for transmittal to the regional administrator, who fail or refuse to comply with a compliance schedule in a permit issued pursuant to the commission act.

History: 1954 ACS 77, p. 32, Eff. Oct. 17, 1973.

R 323.2104 Definitions; P to W.

Rule 1104. As used in this part:

(1) "Person" means an individual, partnership, association, corporation, industry, municipality, state agency, or interstate body.

(2) "Point source discharge" means a discharge which is released to the waters of the state by a discernible, confined and discrete conveyance, including, but not limited to, a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, concentrated animal feeding operation or vessel or other floating craft, from which wastewater is or may be discharged.

(3) "Publicly owned treatment works" means a wastewater collection and treatment facility owned and operated by a municipality or a regional entity composed of 2 or more municipalities.

(4) "Refuse act permit application" means an application for a permit issued under authority of section 13 of the United States rivers and harbor act of March 3, 1899.

(5) "Regional administrator" means the EPA region V administrator.

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(6) "Reporting form" means the uniform NPDES reporting form, including subsequent additions, revisions or modifications thereof promulgated by the administrator of EPA and adopted by the commission for use in administering these rules, or a state form prescribed by the commission for use in administering these rules, for reporting data and information to the commission by a discharger on monitoring and other conditions of permits.

(7) "State permit" means a permit or equivalent document or requirements issued by the commission to a discharger who discharges wastewater on the ground or into groundwaters.

(8) "Trade secret" means the whole or any portion or phase of any manufacturing proprietary process or method, not patented, which is secret, useful in compounding an article of trade having a commercial value, and the secrecy of which the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. It shall not be construed for purpose of these rules to include any information relative to the quantum and character of waste products or their constituents discharged or sought to be discharged into waters of this state.

(9) "Vessel" means any contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including foreign and domestic vessels engaged in commerce upon the waters of this state, passenger or other cargo carrying vessels, privately owned recreational watercraft or any other floating craft.

(10) "Waste" means any waste, wastewater, waste effluent or pollutant, including, but not limited to, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste, discharged into water.

(11) "Wastewater" means liquid waste discharges into the waters of the state resulting from industrial and commercial processes and municipal operations, including, but not limited to, cooling and condensing waters and sanitary sewage from industrial, commercial and municipal facilities.

History: 1954 ACS 77, p. 33, Eff. Oct. 17, 1973.

R 323.2106 Permit requirements of dischargers.

Rule 1106. (1) A person discharging wastes into the surface or groundwaters of the state or on the ground as a point source discharge, whether or not in compliance with an outstanding order of determination, final order of determination, or stipulation with the commission, shall promptly make application for and obtain from the commission a valid national or state permit pursuant to section 7 or 8 of the commission act and according to procedures and deadlines set forth in these rules.

(2) A person proposing a waste or wastewater discharge to the surface or groundwaters of the state shall apply at least 180 days prior to commencement of the discharge or any other time period before commencement of the discharge as determined and required by the commission, for a national or state permit on an appropriate application form supplied by the commission.

(3) A person discharging wastes into surface waters of the state shall apply to the commission for a national permit. A person discharging wastes on the ground or into groundwaters shall apply to the commission for a state permit. The procedures, forms, and deadlines required by these rules shall apply to applications for either national or state permits.

History: 1954 ACS 77, p. 33, Eff. Oct. 17, 1973.

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R 323.2108 Permits; application and filing procedures.

Rule 1108. (1) An application for a permit shall be completed in accordance with and subject to guidelines promulgated by the administrator of EPA, entitled "National Pollutant Discharge Elimination System; Proposed Forms and Guidelines for Acquisition of Information From Owners and Operators of Point Sources," as published in 40 C.F.R. 126, and any subsequent revisions, additions, or modifications thereto, adopted by the commission for purposes of administering these rules.

(2) A person discharging waste or wastewater from more than 1 location shall file a separate application for each discharge location. A single application may be filed for multiple outfalls discharging from a single location, except that the discharge from each outfall shall be described separately in the application.

History: 1954 ACS 77, p. 34, Eff. Oct. 17, 1973.

R 323.2109 Permits; application exemptions.

Rule 1109. A person discharging or proposing to discharge the following types of wastes or wastewaters shall not be required to apply for a permit from the commission pursuant to the commission act or these rules:

(a) Human sewage discharged from vessels.

(b) Water, gas, and other materials injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposal thereof in a well where authorized by the state supervisor of wells.

(c) A discharge directed solely to a publicly owned treatment works, but not from a publicly owned treatment works.

(d) Storm sewers not connected to wastewater treatment works, if the storm sewers are separate from sanitary sewers or other sewers discharging wastewater subject to a permit of the commission, unless a particular storm water discharge has been identified by the commission or the regional administrator as a significant contributor to pollution.

History: 1954 ACS 77, p. 34, Eff. Oct. 17, 1973.

R 323.2111 Refuse act permits; validity; additional requirements.

Rule 1111. A person who has filed an application for a refuse act permit prior to the date of enactment of the federal act is not required to file an application for a national or state permit pursuant to the commission act or these rules, unless otherwise determined necessary by the commission. A complete refuse act permit application may be deemed by the commission as meeting the requirements of the commission act and these rules and a permit may be issued based thereon unless additional information is required as prescribed in R 323.2112.

History: 1954 ACS 77, p. 34, Eff. Oct. 17, 1973.

R 323.2112 Permit applications; transmittal; deficiencies; additional data requirements.

Rule 1112. (1) Upon receipt of an application from a discharger for a national permit, the executive secretary shall transmit a copy thereof and any other applicable related NPDES forms to the regional administrator for his review and comment. Timely written comments thereon submitted to the commission by the regional administrator outlining any deficiencies or other changes he deems necessary to complete the national permit application or an incomplete refuse act permit application, shall be considered by the commission.

(2) If the commission has not received written comment on an application for a national permit from the regional administrator within 90 days after transmittal

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thereto by the executive secretary, the commission shall assume that the regional administrator has no comment thereon and may direct the executive secretary to proceed with the processing of the application. A national permit shall not be issued by the commission to an applicant until comment is received from the regional administrator or until the expiration of the 90 days.

(3) The executive secretary, at his discretion or upon request of the regional administrator, may request of an applicant any additional information deemed necessary to complete or correct deficiencies in the application or to complete or correct deficiencies in a refuse act permit application, before processing the application or issuing or denying the issuance of a permit. A national permit or state permit shall not be issued by the commission until an application therefor is complete or any further information requested by the executive secretary is supplied.

(4) The commission shall take proper enforcement action as prescribed by the commission act against any person who fails to file a complete application, if deficiencies are not corrected or incomplete information is not supplied within 60 days to the executive secretary following his request by the applicant.

History: 1954 ACS 77, p. 34, Eff. Oct. 17, 1973.

R 323.2114 Permit applications and other NPDES forms; valid signatories.

Rule 1114. A state or national permit application form or any other NPDES form submitted to the executive secretary pursuant to these rules shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president, or his designated representative, if the representative is responsible for the over-all operation of the facility from which the discharge described in the permit application or other NPDES form originates.

(2) For a partnership, by a general partner.

(3) For a sole proprietorship, by the proprietor.

(4) For a municipal, state, or other public facility, by either a principal executive officer, the mayor, village president, city, or village manager or other duly authorized employee.

History: 1954 ACS 77, p. 35, Eff. Oct. 17, 1973.

R 323.2115 Permits; tentative determinations and draft permits.

Rule 1115. (1) Prior to public notice pursuant to R 323.2117 of a national or state permit application or a refuse act permit application and when the executive secretary is satisfied that the application is complete, the staff of the commission shall make preliminary determinations on the application, including a proposed determination to issue or deny a state or national permit for the discharge described in the application.

(2) If the proposed determination is to issue a state or national permit, the following additional tentative determinations shall be made:

(a) Proposed effluent limitations shall be identified for the constituents proposed to be limited.

(b) A proposed schedule of compliance for meeting the proposed effluent limitations, including interim dates and requirements, if applicable.

(c) A description of any other proposed restrictions or other conditions determined necessary by the commission which will significantly affect the discharge described in the application, including pretreatment standards for discharges into publicly owned treatment works.

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(3) The executive secretary shall prepare a draft permit based upon the tentative determinations made pursuant to subrules (1) and (2) for the national or state permit application or the refuse act application. The draft permit shall be mailed to the applicant and, in the case of a national permit, to the regional administrator before public notice of the application.

History: 1954 ACS 77, p. 35, Eff. Oct. 17, 1973.

R 323.2117 Public notice of permit application and preliminary determinations.

Rule 1117. (1) The executive secretary shall prepare and sign a public notice of an application for a national permit, or a state permit as deemed appropriate by the commission, and of the proposed determination to issue or deny a permit for the proposed or existing discharge identified in the application. The notice shall be circulated within the geographical area of the proposed or existing discharge in 1 or more of the following ways:

(a) Posting of the notice in the post office or other public buildings of the municipality nearest the premises of the applicant in which the discharge is or will be located.

(b) Posting of the notice at the entrance to the applicant's premises or nearby.

(c) Publishing the notice in 1 or more newspapers of general circulation in the area of the applicant, or if appropriate, in an applicable periodical.

(2) A copy of the notice shall be transmitted to the permit applicant and shall be available at the commission office in Lansing and at the commission district office nearest to the geographical location of the applicant. Any person may request in writing a copy of the notice which will be mailed to him.

History: 1954 ACS 77, p. 35, Eff. Oct. 17, 1973.

R 323.2118 Public notice; contents and information.

Rule 1118. A public notice of a state or national permit application shall contain:

(a) The date of posting or publication of the public notice.

(b) The address and telephone number of the commission office in Lansing and the commission district office nearest to the geographical location of the applicant.

(c) The name and address of the applicant.

(d) A concise description of the applicant's activities and operations which result in the discharge identified in the permit application.

(e) The name of the waterway to which the discharge is made or is proposed to be made, including the location of the proposed or existing discharge identified in the application.

(f) A statement of the commission's tentative determination to issue or deny the permit for the discharge identified in the application.

(g) A concise description of the procedures for the formulation of final determinations including information on the comment period prescribed in R 323.2119 or other means by which interested persons may comment on the tentative determinations.

(h) The address and telephone number of the commission office where more information on the application may be obtained or where copies of the draft permit prepared pursuant to R 323.2115, and fact sheets may be obtained and any other applicable NPDES forms and related documents may be inspected or copied.

History: 1954 ACS 77, p. 36, Eff. Oct. 17, 1973.

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R 323.2119 Public notice; comment period for interested persons.

Rule 1119. (1) Up to 30 days following the date of posting or publication of the public notice pursuant to R 323.2117, an interested person may submit his views in writing on the application or commission tentative determinations, or both, to the commission. The time for public comment may be extended by the executive secretary if he determines that an extension of time is necessary to facilitate additional public comment.

(2) All views submitted to the commission in writing by interested persons during the comment period shall be retained and considered in the formulation of final determinations by the commission on the permit application.

History: 1954 ACS 77, p. 36, Eff. Oct. 17, 1973.

R 323.2121 Fact sheets on permit applications.

Rule 1121. (1) For each state or national permit application which identifies an existing or proposed discharge of 500,000 gallons or more for any day of the year, the executive secretary shall prepare and make available a fact sheet with respect to the application described in the public notice, which shall contain information prescribed by R 323.2122.

(2) The executive secretary may prepare a fact sheet for any existing or proposed discharge identified in an application of less than 500,000 gallons for any day of the year, if he deems the discharge is of significant importance to warrant additional information for public comment.

(3) A copy of the fact sheet shall be available at the commission office in Lansing and at the commission district office nearest to the geographical location of the applicant. Any person may request in writing a copy of the fact sheet which will be mailed to him.

History: 1954 ACS 77, p. 36, Eff. Oct. 17, 1973.

R 323.2122 Fact sheets on permit applications; contents and information.

Rule 1122. The fact sheet prepared pursuant to R 323.2121 shall contain, but is not limited to, the following information:

(a) A sketch or detailed description of the location of the existing or proposed discharge described in the permit application.

(b) A quantitative description of the existing or proposed discharge including, but not limited to, its rate or frequency or average daily flow; its summer and winter temperatures in degrees Fahrenheit and mixing zone information, if the discharge is a thermal discharge subject to limitation under the federal act; its average daily discharge in pounds per day of any pollutants or other constituents subject to limitation under the commission act or the federal act or rules or regulations promulgated thereunder.

(c) The preliminary determinations made by the commission on the permit application pursuant to R 323.2115.

(d) A concise citation of water quality standards, effluent limitations and standards and mixing zones, if applicable, to be applied to the discharge, and the uses for which the receiving waters have been classified.

(e) A complete description of the procedures used by the commission to formulate final determinations on the application and existing or proposed discharges including the 30-day comment period on the public notice, procedures for requesting a public hearing on the application pursuant to R 323.2130 and other procedures to facilitate public comment and participation in the formulation of final determinations by the commission.

History: 1954 ACS 77, p. 36, Eff. Oct. 17, 1973.

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R 323.2124 Public notices and fact sheets; mailing lists.

Rule 1124. (1) An interested person who desires to receive copies of all public notices or fact sheets, or both, on state or national permit applications for discharges in a geographical drainage area of the state as identified in subrule (2), may request that his name be placed on a permanent mailing list of the commission for the information. The request shall be made in writing to the commission office in Lansing and shall be renewed in December of each year. Failure to renew the request is just cause for the commission to remove a name from the mailing list.

(2) The written request of an interested person to the commission shall clearly identify the name of the person, the person's address, the documents desired, and the geographical drainage area of the state for which information is requested. A separate request shall be made for each of the following geographical drainage areas of the state:

(a) Lake Michigan and tributaries thereto, entire.
(b) Lake Michigan and tributaries thereto, Upper Peninsula.
(c) Lake Michigan and tributaries thereto, Lower Peninsula.
(d) Lake Superior and tributaries thereto.
(e) Lake Huron and tributaries thereto.
(f) Lake Erie and tributaries thereto.
(g) St. Mary's river.
(h) Detroit river, Lake St. Clair, and St. Clair river and tributaries thereto.

History: 1954 ACS 77, p. 37, Eff. Oct. 17, 1973.

R 323.2125 Public notices and fact sheets; notice to other governmental agencies.

Rule 1125. (1) Upon receipt of an application for a national permit which identifies an existing or proposed discharge into interstate waters and when the executive secretary determines that the discharge may affect the quality of the waters of any other state, he shall notify the appropriate state or interstate agency of the discharge and shall transmit a copy of the public notice and fact sheet on the application thereto. Upon request of the state or interstate agency, the executive secretary shall also transmit a copy of the application and the draft permit prepared pursuant to R 323.2115.

(2) A state or interstate agency notified by the executive secretary pursuant to subrule (1) shall have 45 days in which to comment on the existing or proposed discharge and may submit in writing to the commission and the regional administrator its views and recommendations. The views and recommendations submitted to the commission by another state or interstate agency may be incorporated into the national permit if determined necessary and desirable by the commission. If not incorporated into the national permit, the commission shall notify the state or interstate agency in writing and provide opportunity for hearing, if requested by the state or interstate agency.

(3) When a public notice on a national permit application for discharges into navigable waters is posted or published, the executive secretary shall transmit a copy of the notice and fact sheet thereon to the appropriate district engineer of the United States army corps of engineers for existing or proposed discharges identified therein, if such discharges are not minor discharges.

(4) If requested in writing thereby, the executive secretary shall mail a copy of a public notice or fact sheet, or both, for an application for a national or state permit, to any other federal, state, or local agency or affected Canadian provincial or federal agencies. The provisions of subrule (2) with regard to opportunity for

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comment and hearings apply to the federal, state or local agencies or Canadian provincial or federal agencies.

History: 1954 ACS 77, p. 37, Eff. Oct. 17, 1973.

R 323.2126 Permit applications; notice to state public health department.

Rule 1126. The executive secretary shall transmit to the director of the state department of public health copies of draft permits and fact sheets for state or national permit applications and shall provide, by agreement, opportunity for review and comment thereon to assure compliance of the applicant with applicable health requirements.

History: 1954 ACS 77, p. 38, Eff. Oct. 17, 1973.

R 323.2127 Public access to NPDES forms and commission files and records.

Rule 1127. A copy of a state or national permit application, public notice, fact sheet, draft permit and other NPDES forms relating thereto, including written public comment thereon and other reports, files and information relating to the application not classified as confidential information by the executive secretary pursuant to R 323.2128, shall be available for public inspection and copying during normal business hours at the commission office in Lansing and an appropriate district office of the commission in the geographical area of the applicant. Document inspection and copying procedures shall be according to R 323.1015.

History: 1954 ACS 77, p. 38, Eff. Oct. 17, 1973.

R 323.2128 Confidential information.

Rule 1128. Upon determination by the commission that public disclosure of information contained on any NPDES form, except information concerning effluent data or information from the files and records of the commission not otherwise entitled to protection against disclosure by previous action of the commission or of EPA, would divulge information entitled to protection as trade secrets of the applicant, the commission shall label and otherwise handle the information as confidential and shall notify and forward the information to the regional administrator. In making its determination of entitlement to protection as a trade secret, the commission shall consider evidence submitted by the applicant. In the event of denial by the commission of entitlement to protection as a trade secret, the applicant, upon notification thereof, shall have 30 days in which to appeal the decision to the commission. If the commission determines, following appeal, that the information is not entitled to trade secret status the commission, not less than 30 days after the applicant is notified of the decision, shall release the information for inspection or copying pursuant to R 323.2127. Where EPA has previously accorded trade secret status to information of an applicant, the commission shall accept that finding as entitlement to trade secret status for the purpose of this rule. Unless otherwise determined by the regional administrator or the executive secretary, all information labeled by the commission as confidential shall not be available to the public for inspection or copying pursuant to R 323.2127, except that the information shall be made available at any time to the regional administrator or other authorized representative of the United States concerned with carrying out the commission act or the federal act, upon written request therefor.

History: 1954 ACS 77, p. 38, Eff. Oct. 17, 1973.

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R 323.2130 Permit applications; public hearings, determinations, and scheduling.

Rule 1130. (1) Within the 30-day comment period or other applicable comment period provided after posting or publishing of a public notice pursuant to R 323.2119, an applicant, any affected state or state or interstate agency or country, the regional administrator, or any other interested person or agency may file a petition with the commission for a public hearing on an application for a state or national permit. A petition for a public hearing shall indicate the reasons why a hearing is requested, the interest in or relationship of the petitioner to the application or existing or proposed discharge identified therein and specifically indicate which portions of the application or other NPDES form or information constitutes necessity for a public hearing. If the commission determines that a petition constitutes sufficient cause or that there is sufficient public interest in an application for a public hearing, it may direct the scheduling of a hearing thereon.

(2) A hearing shall be scheduled not less than 4 nor more than 8 weeks after the commission determines the necessity of the hearing in the geographical location of the applicant or, at the discretion of the executive secretary, at another appropriate location, and shall be noticed at least 30 days before the hearing in the same manner as the public notice on an application pursuant to R 323.2117 and R 323.2118. The notice of public hearing shall be transmitted to the applicant and shall be published in at least 1 newspaper of general circulation in the geographical area of the existing or proposed discharge identified on the permit application, and shall be mailed to any person or group upon request therefor. Notice shall be mailed to all persons and governmental agencies which received a copy of the notice or the fact sheet for the permit application.

(3) The commission may hold a single public hearing on related groups of permit applications.

History: 1954 ACS 77, p. 38, Eff. Oct. 17, 1973.

R 323.2131 Permit applications; public hearing notice; contents.

Rule 1131. A notice by the commission of a public hearing on an application shall contain in addition to the time and place of the hearing:

(a) The address and telephone number of the commission office in Lansing and the appropriate district office of the commission.

(b) The name and address of the applicant whose application will be considered at the public hearing.

(c) The name of the waterway to which a discharge, as identified on the application, is or will be made and a concise description of the location on the waterway of the discharge.

(d) Reference to the public notice posted and published for the application, including the identification numbers and dates of issuance thereof.

(e) A brief statement of the purpose of the public hearing.

(f) A concise description of the issues which have been identified by the petitioners requesting the public hearing.

(g) The address or addresses of commission offices where interested persons may inspect or obtain copies of a draft permit, fact sheet, or other applicable NPDES forms or other reports, files, or information relating to an application subject to public hearing, which has not been labeled confidential by the executive secretary pursuant to R 323.2128.

(h) A concise description of the nature of the public hearing and the issues to be heard, with reference to commission rules and procedures to be followed.

History: 1954 ACS 77, p. 39, Eff. Oct. 17, 1973.

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R 323.2133 Permit applications; determinations; issuance; denial.

Rule 1133. (1) Following review of tentative determinations or modifications thereof made by the staff of the commission pursuant to R 323.2115, any comments on the permit application received by the commission from the regional administrator pursuant to R 323.2112, comments received from the public during the 30-day comment period following public notice of the permit application as provided by R 323.2117, other applicable recommendations or determinations and review of the public hearing record after a hearing on an application pursuant to R 323.2130, the commission shall make a final determination on the permit application and may issue or deny a state or national permit pursuant to section 5 of the commission act.

(2) An appeal to a final determination of the commission made pursuant to subrule (1), or to a condition of a permit issued or the denial of a permit pursuant to the commission act and the rules, shall be in accordance with and subject to section 8 of the commission act, and part 3 of the general rules of the commission, being R 323.1031 to R 323.1036 of the Michigan Administrative Code.

(3) When the commission issues a state or national permit to a discharger in possession of an order of determination or stipulation of the commission issued or entered into prior to April 15, 1973, the state or national permit conditions shall take precedence over all conditions of the order of determination or stipulation. If the commission denies the issuance of a state or national permit to a discharger in possession of an order of determination or stipulation of the commission, compliance with the conditions of the order of determination or stipulation is not a defense of the discharger's obligation as prescribed by the commission act.

(4) A national permit issued by the commission pursuant to the commission act and these rules is a state permit where the permit is issued for waste or wastewater discharges into the surface waters of the state. A state permit issued for a waste or wastewater discharge into groundwaters or on the ground is not a national permit required pursuant to the federal act.

History: 1954 ACS 77, p. 39, Eff. Oct. 17, 1973.

R 323.2134 Permits; transmittal to EPA.

Rule 1134. The executive secretary shall transmit all copies of national permits issued by the commission pursuant to the commission act and these rules to the regional administrator immediately following issuance. If a permit is denied, written notice thereof and the reasons therefor shall be transmitted to the regional administrator.

History: 1954 ACS 77, p. 40, Eff. Oct. 17, 1973.

R 323.2136 Terms and conditions of permits; prohibited discharges.

Rule 1136. A permit shall not be issued to a person proposing any of the following discharges:

(a) A discharge containing a radiological, chemical, or biological warfare agent or a high-level radioactive waste.

(b) A discharge containing a substance which the commission determines would substantially impair anchorage or navigation, or both.

(c) A point source discharge in conflict with an areawide waste treatment management plan or amendments thereto, prepared by a management agency pursuant to section 208(b) of the federal act, unless the commission finds such variance necessary to protect the public health, safety and welfare.

(2) An NPDES permit will not be issued to a person proposing any of the following discharges into waters subject to regulation under the federal act.

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(a) A discharge containing a radiological, chemical, or biological warfare agent or a high-level radioactive waste;

(b) A discharge containing a substance which, as determined by the secretary of the army acting through the chief of engineers of the United States army corp of engineers, would substantially impair anchorage or navigation or both;

(c) A discharge to which the regional administrator objects in writing to the commission pursuant to R 323.2112, pursuant to any right to object provided the administrator of EPA in section 402(d) of the federal act; and

(d) A point source discharge in conflict with an areawide waste treatment management plan, or amendments thereto, prepared by a management agency pursuant to section 208(b) of the federal act unless otherwise approved by EPA.

History: 1954 ACS 77, p. 40, Eff. Oct. 17, 1973.

R 323.2137 Terms and conditions of permits; effluent standards and limitations.

Rule 1137. When applicable, a permit issued by the commission shall contain terms and conditions deemed necessary by the commission to insure compliance with at least the following effluent standards and limitations:

(a) Effluent limitations for publicly owned treatment works and other point source discharges when promulgated by the administrator of EPA pursuant to sections 301, 302, 307, and 308 of the federal act, in accordance with and subject to the date of compliance prescribed therein, if the limitations are not in conflict with the commission act or the federal act.

(b) Standards of performance, when promulgated by the administrator of EPA, for new sources within the categories defined in section 306 of the federal act.

(c) If the permit is for a discharge from a publicly owned treatment works, standards of performance, pretreatment standards or effluent limitations or prohibitions when promulgated by the administrator of EPA for toxic substances, monitoring and charges pursuant to sections 204(b), 307, and 308 of the federal act, if the standards, limitations, or prohibitions are not in conflict with the commission act or the federal act.

(d) Any other more stringent limitation deemed necessary by the commission to meet applicable water quality standards, treatment standards or schedules of compliance established pursuant to the commission act or rules promulgated pursuant thereto, or necessary to meet other federal law or regulation enacted or promulgated subsequent to these rules, or required to meet any applicable water quality standards including applicable requirements necessary to meet maximum daily loads established by and incorporated into the state's continuing planning process required pursuant to section 303 of the federal act.

History: 1954 ACS 77, p. 40, Eff. Oct. 17, 1973.

R 323.2138 Terms and conditions of permits; consistency with water quality standards.

Rule 1138. When a state or national permit is issued by the commission which contains any effluent standards or limitations set forth in R 323.2137, the commission shall verify that the discharge authorized by the issued permit will not violate applicable water quality standards. When a permit contains additional effluent limitations based upon applicable water quality standards, the commission shall prepare a waste load allocation ensuring that the discharge authorized by the issued permit is consistent with applicable water quality standards.

History: 1954 ACS 77, p. 40, Eff. Oct. 17, 1973.

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R 323.2139 Terms and conditions of permits; requirements to comply with plans.

Rule 1139. The commission, if it deems necessary, may impose any further requirements under the terms and conditions of a state or national permit to comply with an areawide waste treatment management plan, or amendments thereto, prepared by a management agency pursuant to section 208(b) of the federal act.

History: 1954 ACS 77, p. 41, Eff. Oct. 17, 1973.

R 323.2140 Terms and conditions of permits; interim requirements.

Rule 1140. Prior to promulgation of regulations by the administrator of EPA relating to applicable effluent standards or limitations or standards of performance set forth in R 323.2137, the commission may impose any standard, limitation, or condition within a state or federal permit to ensure compliance with the commission act and the federal act.

History: 1954 ACS 77, p. 41, Eff. Oct. 17, 1973.

R 323.2141. Terms and conditions of permits; discharges from vessels.

Rule 1141. (1) If a national permit is issued pursuant to the commission act and these rules for the discharge of wastes from a vessel other than human sewage exempted by R 323.2109, the permit shall contain requirements in accordance with and subject to the applicable regulations promulgated by the secretary of the federal department in which the United States coast guard is operating, which establish specifications for transportation, handling, carriage, storage, and stowage of such wastes.

(2) The commission shall issue a national permit for the discharge of wastes from a vessel only when the permit is in conformance with Act No. 167 of the Public Acts of 1970, being §§323.331 to 323.342 of the Michigan Compiled Laws.

History: 1954 ACS 77, p. 41, Eff. Oct. 17, 1973.

R 323.2142 Terms and conditions of permits; other limitations and requirements.

Rule 1142. When issuing a state or national permit pursuant to the commission act and these rules, the commission shall specify therein, where applicable, average and maximum daily quantitative limitations for the level of wastewater constituents in terms of weight and if appropriate, average or maximum concentration limits for the wastes in the discharge authorized by the issued permit.

History: 1954 ACS 77, p. 41, Eff. Oct. 17, 1973.

R 323.2145 Terms and conditions of permits; schedules of compliance.

Rule 1145. (1) A person issued a state or national permit by the commission pursuant to R 323.2133 who is not in compliance with applicable effluent standards and limitations or other requirements conditioned therein at the time the permit is issued, shall be required to achieve compliance within a period of time as set forth by the commission, with effluent standards and limitations, with water quality standards, or with specific requirements or conditions set by the commission. The commission shall require compliance with terms and conditions of the permit in the shortest reasonable period of time as determined thereby or within a time schedule for compliance which shall be specified in the issued permit.

(2) If a time schedule for compliance specified in a state or national permit which is established by the commission pursuant to subrule (1) exceeds 9 months,

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the time schedule shall provide for interim dates of achievement for compliance with certain applicable terms and conditions of the permit. Each interim date specified in the permit shall not exceed 9 months and, to the extent practicable, shall fall on March 31, June 30, September 30, or December 31.

History: 1954 ACS 77, p. 41, Eff. Oct. 17, 1973.

R 323.2146 Terms and conditions of permits; compliance reports by dischargers.

Rule 1146. Within 14 days after an interim date of compliance or the final date of compliance specified in a state or national permit, a permittee shall provide the commission with written notice of his compliance or noncompliance with the requirements or conditions specified to be completed by that date. Failure to submit the written notice to the commission is just cause for the commission to pursue enforcement action against the discharger pursuant to the commission act or these rules.

History: 1954 ACS 77, p. 41, Eff. Oct. 17, 1973.

R 323.2147 Noncompliance lists.

Rule 1147. (1) The executive secretary shall prepare and submit to the regional administrator, on or before February 28, May 31, August 31, and November 30, a list of all dischargers holding national permits which, as of 30 days prior to the date of the report, have submitted a report to the commission pursuant to R 323.2146 showing noncompliance with requirements set forth by the commission to be met on interim dates or on the final date of compliance specified in the permit and those which have not filed a timely report. The noncompliance list shall be available to the public at appropriate commission offices for inspection and copying and shall contain the following information:

(a) The name and address of each noncomplying permittee.

(b) A concise description of the nature of noncompliance.

(c) A description of proposed actions to be taken by the commission or the permittee to correct the noncompliance.

(d) Any other information deemed necessary by the executive secretary to explain or mitigate an instance of noncompliance.

(2) A discharger who fails or refuses to comply with an interim or final date of compliance specified in a state or national permit, may be deemed by the commission to be in violation of the permit and may be subject to enforcement action prescribed in the commission act or these rules.

History: 1954 ACS 77, p. 42, Eff. Oct. 17, 1973.

R 323.2149 Other terms and conditions of state and national permits.

Rule 1149. (1) As part of the condition for issuing a state or national permit by the commission pursuant to these rules, the commission shall be assured that:

(a) All discharges authorized by the permit are consistent with the terms and conditions of the permit and that the permittee will make all reasonable effort to meet any interim or final dates of compliance specified therein.

(b) Any facility expansion, production increases, process modifications, changes in discharge volume or other changes in operations or conditions of the permittee which may result in a new or increased discharge of waste or wastewater shall be reported to the commission by submission of a new application for a state or national permit pursuant to R 323.2108, or if the discharge does not violate effluent limitations specified in the permit, by submission to the executive secretary a notice of a new or increased discharge.

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(c) The permittee shall allow any authorized commission representative to enter upon the permittee's premises at any reasonable time, upon presentation of credentials, to have access to and copy any applicable records, to inspect process facilities, treatment works, monitoring methods or equipment therefor or to sample any effluent of a discharge authorized by a permit.

(d) At all times the permittee shall maintain in good working order and operate as efficiently as possible any facilities or systems of control installed to achieve compliance with the terms and conditions of a permit.

(2) Before the commission issues a state or national permit for a discharge from the publicly owned treatment works, it shall secure assurance from the applicant that it will be notified of:

(a) Any new introduction of waste or wastewater constituents into the treatment works from a source which would be a new source as defined in section 306 of the federal act if the source were discharging wastewater constituents.

(b) Except as to categories and classes of point sources or discharges specified by the executive secretary, any new introduction of waste or wastewater constituents into the treatment works from a source which would be subject to section 301 of the federal act if the source were discharging waste or wastewater constituents.

(c) Any substantial change in volume or character of waste or wastewater constituents being introduced into such treatment works by a source discharging wastewater into the treatment works at the time of issuance of a permit.

(3) If a permit is issued by the commission for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of the treatment works to comply with the requirements of sections 204(b), 307, and 308 of the federal act. To ensure compliance the permittee shall require of each industrial user subject to the requirements of section 307 of the federal act to submit periodic notice over intervals, not to exceed 9 months, of progress toward full compliance with section 307 requirements. The permittee shall forward a copy of the periodic notice to the executive secretary.

History: 1954 ACS 77, p. 42, Eff. Oct. 17, 1973.

R 323.2150 Duration of permits.

Rule 1150. A state or national permit issued pursuant to the commission act and these rules shall have a fixed term which shall not exceed 5 years. A person who wishes to continue to discharge waste or wastewater into the surface or groundwaters of the state or on the ground shall apply for reissuance of a permit pursuant to R 323.2151.

History: 1954 ACS 77, p. 43, Eff. Oct. 17, 1973.

R 323.2151 Review and reissuance of state and national permits.

Rule 1151. (1) At least 180 days prior to the expiration date of a state or national permit issued by the commission pursuant to the commission act and these rules, a permittee who wishes to continue the discharge of waste or wastewaters into the surface or groundwaters of the state or on the ground shall submit a written request to the commission for reissuance.

(2) After receipt of written request for reissuance of a state or national permit by a permittee, the commission shall review the request and before reissuing a permit shall be assured that:

(a) The permittee is in compliance with or has substantially complied with the terms, conditions, requirements, and schedules of compliance of the existing state or national permit.

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(b) The commission has up-to-date information on the permittee's production levels, waste treatment practices, and the nature, contents, and frequency of the permittee's discharge. The information shall be available to the commission either through the submission of new NPDES forms by the permittee or by means of monitoring records or reports submitted thereto pursuant to R 323.2155.

(c) The discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements, including any additions to, or revisions or modifications of, the effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(3) The commission shall follow the public notice and public participation procedures specified in R 323.2117 to R 323.2119 and R 323.2124 to R 323.2127 before any state or national permit is reissued pursuant to this rule.

(4) A copy of a national permit reissued by the commission shall be transmitted to the regional administrator with any other appropriate NPDES forms or other applicable information relating thereto.

History: 1954 ACS 77, p. 43, Eff. Oct. 17, 1973.

R 323.2153 Point source discharges; standards of performance.

Rule 1153. A facility, building, installation, or industry which discharges a point source discharge subject to a national permit and which is so constructed after October 18, 1972, to meet all applicable effluent standards of performance as required by the federal act, the commission act, or these rules, shall not be subject to any more stringent standard of performance for any wastewater constituent during a 10-year period beginning on the date of completion of construction or during the period of depreciation or amortization of the facility for the purposes of section 167 or 169, or both, of the internal revenue code of 1954, whichever period ends first, unless reallocation of effluent loads are necessitated in a discharge complex to meet water quality standards.

History: 1954 ACS 77, p. 43, Eff. Oct. 17, 1973.

R 323.2154 Monitoring of discharges authorized by permits; requirements.

Rule 1154. (1) The commission may set forth monitoring requirements of any discharge authorized by a state or national permit issued by it pursuant to these rules. In requiring any discharge monitoring, the commission shall specify the type of monitoring required, and the discharger shall obtain approval of the installation, use, and maintenance of monitoring equipment or methods to be employed therefor from the commission.

(2) A discharge authorized by a national permit which the regional administrator, by written request to the commission, requires to be monitored or which contains toxic waste or wastewater constituents for which an effluent standard or limitation has been established by the administrator of EPA pursuant to section 307(a) of the federal act, shall be monitored by the permittee for any or all of the following:

(a) The flow of the discharge in gallons per day or other volumes required by the commission.

(b) Waste or wastewater constituents subject to reduction or elimination under the terms and conditions of the permit.

(c) Specific waste or wastewater constituents which are determined by the executive secretary to have a significant effect on the quality of the waters of the state.

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(d) Waste or wastewater constituents specified as subject to monitoring by the administrator of EPA in regulations promulgated pursuant to the federal act.

(e) Any other specific waste or wastewater constituents which the regional administrator may request in writing to be monitored.

(3) The frequency of monitoring of a waste or wastewater discharge required to be monitored pursuant to this rule shall be specified in a state or national permit when issued, except that the commission at any time may require additional monitoring by notification of the permittee in writing.

History: 1954 ACS 77, p. 43, Eff. Oct. 17, 1973.

R 323.2155 Monitoring of discharges authorized by permits; recording and reporting.

Rule 1155. (1) A permittee required to monitor a waste or wastewater discharge pursuant to R 323.2155, shall maintain records of all information resulting from such monitoring, including the date, place, and time of sampling; and dates analyses were performed; the person performing the analyses; the analytical techniques, procedures or methods used; and the results of such analyses. All records and results of monitoring activities and calibration and maintenance records shall be retained by the permittee a minimum of 3 years unless otherwise required or extended by the commission or the regional administrator.

(2) The commission may require a permittee to report periodically the results of all monitoring activities undertaken by him on an appropriate reporting form supplied by the commission. The commission shall notify the permittee of the frequency of reporting, but in no case shall the reporting frequency be less than at least once in a period of 1 year.

(3) Upon written request of the regional administrator, the commission shall transmit thereto any reporting form or other monitoring information required by this rule.

History: 1954 ACS 77, p. 44, Eff. Oct. 17, 1973.

R 323.2159 State and national permits; modification or revocation.

Rule 1159. (1) The commission may modify any term or condition, including a schedule of compliance, of a permit or may revoke a permit upon its finding that:

(a) There is a change in any condition that requires a temporary or permanent reduction or elimination of a permitted discharge or constituent thereof.

(b) The administrator of EPA issues a regulation prescribing a restriction or prohibition of a waste or wastewater constituent which is not covered by the terms and conditions of a permit or if the regulation is more stringent than any limitation imposed on a wastewater constituent in a permit.

(c) A modification of the terms and conditions of a permit or a time schedule thereon is necessary because of an act of God or other conditions beyond the control of the permittee.

(d) In the case of discharges from publicly owned treatment works, federal treatment works grant funds are not available or are not sufficient to allow construction of the treatment works in a time schedule set forth in the permit.

(e) There is a violation of any terms or conditions of the permit.

(f) The permittee has obtained a permit by misrepresentation or has failed to disclose all relevant facts to the commission.

(g) A toxic effluent standard or prohibition, including any schedule of compliance specified therein, is established pursuant to section 307(a) of the federal act for a toxic waste or wastewater constituent which is present in the permittee's

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discharge and the standard or prohibition is more stringent than any limitation upon the waste or wastewater constituent in the permit.

(2) The commission shall notify the regional administrator of any change in status or condition of a permit, and he shall have an opportunity to object in writing thereto within 45 days before the effective date of the modification. Should the regional administrator object in writing, the objection shall be resolved before the modification is approved by the commission, unless the right to object is waived in writing by the regional administrator.

(3) A permittee who is affected by a modification of a permit by the commission shall be notified at least 90 days before the effective date of the modification and upon petition therefor, shall have a hearing thereon pursuant to subsection (a), section 8 of the commission act, and part 3 of the general rules of the commission, being R 323.1031 to R 323.1036 of the Michigan Administrative Code.

(4) If the commission modifies an effluent limitation or a schedule of compliance in a permit, notice of the modification shall be mailed to all persons on the commission mailing list for public notices and fact sheets as prescribed by R 323.2124, and any interested person may comment thereon within 30 days following the date of notification.

History: 1954 ACS 77, p. 44, Eff. Oct. 17, 1973.

R 323.2160 Enforcement.

Rule 1160. (1) A person who submits false information to the commission on an application, other NPDES form, or any other reporting form, or who violates any of these rules, a term, condition, or schedule of compliance contained within a valid state or national permit, or the commission act is subject to the remedies or penalties prescribed by sections 7 and 10 of the commission act.

(2) The commission shall notify the regional administrator of all violations of these rules, a valid permit or the commission act, and of the means by which the commission proposes to correct or require the correction of violations.

History: 1954 ACS 77, p. 45, Eff. Oct. 17, 1973.

DIVISION OF LAND RESOURCE PROGRAMS

AQUATIC NUISANCE CONTROL

(By authority conferred on the department of natural resources by section 1 of Act No. 58 of the Public Acts of 1959, as amended, being §323.221 of the Michigan Compiled Laws)

R 323.3101 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 58 of the Public Acts of 1959, as amended, being §§323.221 to 323.226 of the Michigan Compiled Laws.

(b) "Algae" means any of the group of nonvascular aquatic plants without true stems, flowers, leaves, and roots, either single-celled or colonial forms.

(c) "Aquatic nuisance" means any organism which lives or propagates, or both, within the aquatic environment and interferes with, or impairs the use or enjoyment of, the aquatic resources of the state.

(d) "Aquatic vegetation" means both algae and higher aquatic plants.

(e) "Certified applicator" means a commercial applicator certified by the Michigan department of agriculture pursuant to section 12 of Act No. 171 of the Public Acts of 1976, being §286.562 of the Michigan Compiled Laws.

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(f) "Chemical" means any product designed to control aquatic vegetation, swimmers' itch, or other aquatic nuisances, including, but not limited to, chemical herbicides and other chemicals designed to eliminate nutrients from the water column, seal the bottom sediments, or limit the penetration of light through the water column, thereby restricting the growth of aquatic plants.

(g) "Department" means the Michigan department of natural resources.

(h) "Director" means the director of the department.

(i) "EPA" means the United States environmental protection agency.

(j) "FIFRA" means the federal insecticide, fungicide and rodenticide act, as amended, being 7 U.S.C. §§136 to 136(y).

(k) "Herbicide" means a chemical used to kill, or inhibit the growth of, plants and algae, which is registered with the EPA and the Michigan department of agriculture for use in the aquatic environment.

(l) "Higher aquatic plant" means any of a group of vascularized plants with true stems, flowers, leaves, and roots, which live in water and belong to the class angiospermae.

(m) "Pond" means a small body of standing water without a permanent or intermittent outlet, which has a surface area of not more than 10 acres, and is owned by a single individual or corporation.

(n) "Swimmers' itch" means the inflammation of a swimmer's skin resulting from an allergic reaction to the penetration of the skin by the immature stages of blood fluke parasites which live a part of their life cycle in certain aquatic snails.

(o) "Weekday" means all days of the week except Saturday, Sunday, memorial day, and July 4 (independence day).

History: 1954 ACS 95, p. 50, Eff. June 9, 1978.

R 323.3102 Persons required to obtain permit.

Rule 2. A person proposing a chemical treatment for the purpose of aquatic nuisance control of waters of the state, except ponds, shall obtain a permit from the department prior to treatment, pursuant to section 5 of the act.

History: 1954 ACS 95, p. 51, Eff. June 9, 1978.

R 323.3103 Permit; required information.

Rule 3. The department-issued permit shall include the name of the chemical to be applied, rate of application, maximum amount to be applied, procedures for the notification of the department, posting restrictions on water use, and location of the treatment.

History: 1954 ACS 95, p. 51, Eff. June 9, 1978.

R 323.3104 Registration of chemicals; use of certain chemicals prohibited.

Rule 4. (1) A chemical employed for aquatic nuisance control shall be registered with the EPA and the Michigan department of agriculture for the nuisance control activity for which it is proposed pursuant to section 12 of FIFRA and section 8 of Act No. 171 of the Public Acts of 1976, being §286.558 of the Michigan Compiled Laws.

(2) The director may prohibit the use of certain chemicals if they present a hazard or potential hazard to public health or the natural resources of the state. The department shall not issue permits authorizing the use of such chemicals. In addition, anyone operating under a permit shall cease the use of such chemicals upon notification by the department.

History: 1954 ACS 95, p. 51, Eff. June 9, 1978.

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R 323.3105 Application for permit; notification of proposed treatment; treatment report form.

Rule 5. (1) An application for permit may be made by an individual, governmental unit, certified applicator, or a local lake association. If treatment is to be conducted by a certified applicator or a local lake association and is to involve the property of 5 or more riparian owners, a list of not less than 5 individual riparian owners involved in the treatment, as well as the name of the lake association, shall accompany the permit application.

(2) An application for permit on department forms with a drawing of the treatment area which clearly delineates the proposed treatment shall be submitted in duplicate to the department.

(3) A permit for the use of an aquatic herbicide to control higher aquatic plants shall only be issued between April 1 and August 20 of each year. A permit application postmarked after August 15 shall be returned to the applicant.

(4) A permit application for the control of swimmers' itch or algae may be submitted at any time during the summer season.

(5) A permit application proposing treatment of a body of water or a connecting watercourse which serves as a municipal water supply shall be submitted by the department to the department of public health for review prior to the issuance of a permit.

(6) The department shall either issue a permit, grant the permit in part, or deny the permit and provide the applicant with written reasons for denial, within 15 working days after receipt of a complete application. Action on permits requiring review by the department of public health may take up to 30 days.

(7) An occupant of an adjacent riparian dwelling, whose bottom lands are within the treated area or within 100 feet of the treated area, shall be given notice by the applicant of the proposed treatment in writing not less than 7 days prior to the treatment.

(8) The permittee shall complete and return the treatment report form provided by the department on or before November 1 of the year in which the permit is issued.

History: 1954 ACS 95, p. 51, Eff. June 9, 1978.

R 323.3106 Application of herbicides; permitted times.

Rule 6. (1) The application of herbicides to an area greater than 2 acres, or along more than 1,000 feet of shoreline, shall be conducted on a weekday or Saturday between sunrise and sunset until June 28, and only on weekdays thereafter.

(2) An aquatic herbicide which restricts body contact activities in treated water for more than 24 hours after treatment shall not be used after June 20 of any year without written approval of all riparian owners within 100 feet of the treated area.

History: 1954 ACS 95, p. 52, Eff. June 9, 1978.

R 323.3107 Conditions of permit.

Rule 7. As a condition of the permit, the department may require the permittee to do any of the following:

(a) Notify the department not less than 2 working days in advance of treatment.

(b) Proceed with treatment only if a department representative is present.

(c) Supply to the department or its representative a sample of the herbicide used prior to or during any herbicide treatment.

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(d) Post the treated area prior to treatment according to precautions included on the permit and the posting guidelines in R 323.3110.

(e) Publish a notice in a local newspaper or make an announcement on a local radio station which outlines the chemical used, a description of the treated area, and the restrictions on the use of treated water.

History: 1954 ACS 95, p. 52, Eff. June 9, 1978.

R 323.3108 Denial of a permit.

Rule 8. The department shall deny a permit application in any of the following circumstances:

(a) The proposed use of a product is inconsistent with its label pursuant to FIFRA.

(b) The use of a product unregistered for that particular use by the Michigan department of agriculture pursuant to Act No. 171 of the Public Acts of 1976 and the EPA pursuant to FIFRA is proposed.

(c) The use of an aquatic herbicide, though strictly in accordance with the label and otherwise in compliance with these rules, is likely to result in economic loss, recreational damage, or a public health hazard.

(d) An application for chemical treatment of higher aquatic plants is postmarked after August 15.

(e) An application proposes treatment of too large a quantity of rooted aquatic vegetation of any 1 lake as determined by the department.

(f) If an applicant has committed 2 or more violations of other permits previously issued under the act, conditions of a permit, or these rules within 1 calendar year.

History: 1954 ACS 95, p. 52, Eff. June 9, 1978.

R 323.3109 Revocation of permit.

Rule 9. The department may revoke a permit issued under the act on notice by certified mail to the permittee in any of the following circumstances:

(a) The use of an aquatic herbicide, although otherwise in accordance with the label and these rules, is likely to result in economic loss, recreational damage, or a public health hazard.

(b) False information is provided on the permit application.

History: 1954 ACS 95, p. 52, Eff. June 9, 1978.

R 323.3110 Posting of treatment area.

Rule 10. For those permits which require prior posting of the treated area, signs shall be posted as follows:

(a) For treatment of areas less than 2 acres, signs incorporating the posting instructions on the permit shall be posted along the shoreline of the treatment area not more than 100 feet apart. To allow for drift of chemical from the treatment area, riparian lands adjacent to the area shall also be posted, if permitted by the riparian owners.

(b) For treatment of areas in excess of 2 acres, signs shall be posted as in subdivision (a). In addition, all access sites, boat launching areas, and private and public parks located on the body of water involved, shall be posted conspicuously, such as at the entrances, boat ramps, and bulletin boards, if permitted by their managers or owners. If these sites, launching areas, and parks are not to be treated or are not adjacent to a treated area, the signs shall clearly indicate the

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location of the treatment area and shall outline the restrictions on the use of the water in that treatment area.

(c) Posting of signs shall be accomplished with a printed sign approved by the department, which shall include:

(i) The permit number.

(ii) The name, address, and telephone number of the person, organization, or certified applicator conducting the treatment.

(iii) The name of the chemical or chemicals and the restrictions on the use of treated water pursuant to the permit.

History: 1954 ACS 95, p. 52, Eff. June 9, 1978.

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